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DEPARTMENT OF LABOR AND INDUSTRY

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February 1998

Dear Reader:

I am pleased to present the second edition of the Montana Workers' Compensation Annual Report.

Let me say, immediately, to those of you who have invested time, energy and money in the data collection process that makes this report possible: Thank You! I am very aware that many people have contributed their efforts to this product and we, in the Department of Labor and Industry, are sincerely grateful for your help in making data collection a valuable part of the workers' compensation industry.

We learned a great deal with the publication of our first Annual Report. Thanks to survey feedback from readers, we have made a number of changes. For instance, you will find the presentation of injury data has been simplified, and we have refined narrative descriptions to make them more readable and informative.

With the addition of Fiscal Year 1997 data, we have begun some year to year comparisons. You will also find data collected from subsequent reports of workers' compensation claims, and data concerning Professional Employer Organizations and Managed Care Organizations.

Early this spring we contracted with our first Electronic Data Interface (EDI) trading partner. EDI provides the electronic vehicle to report First Reports of Injury easily and very quickly. During the upcoming fiscal year, more than half of all First Reports of Injury will be sent electronically to the department.

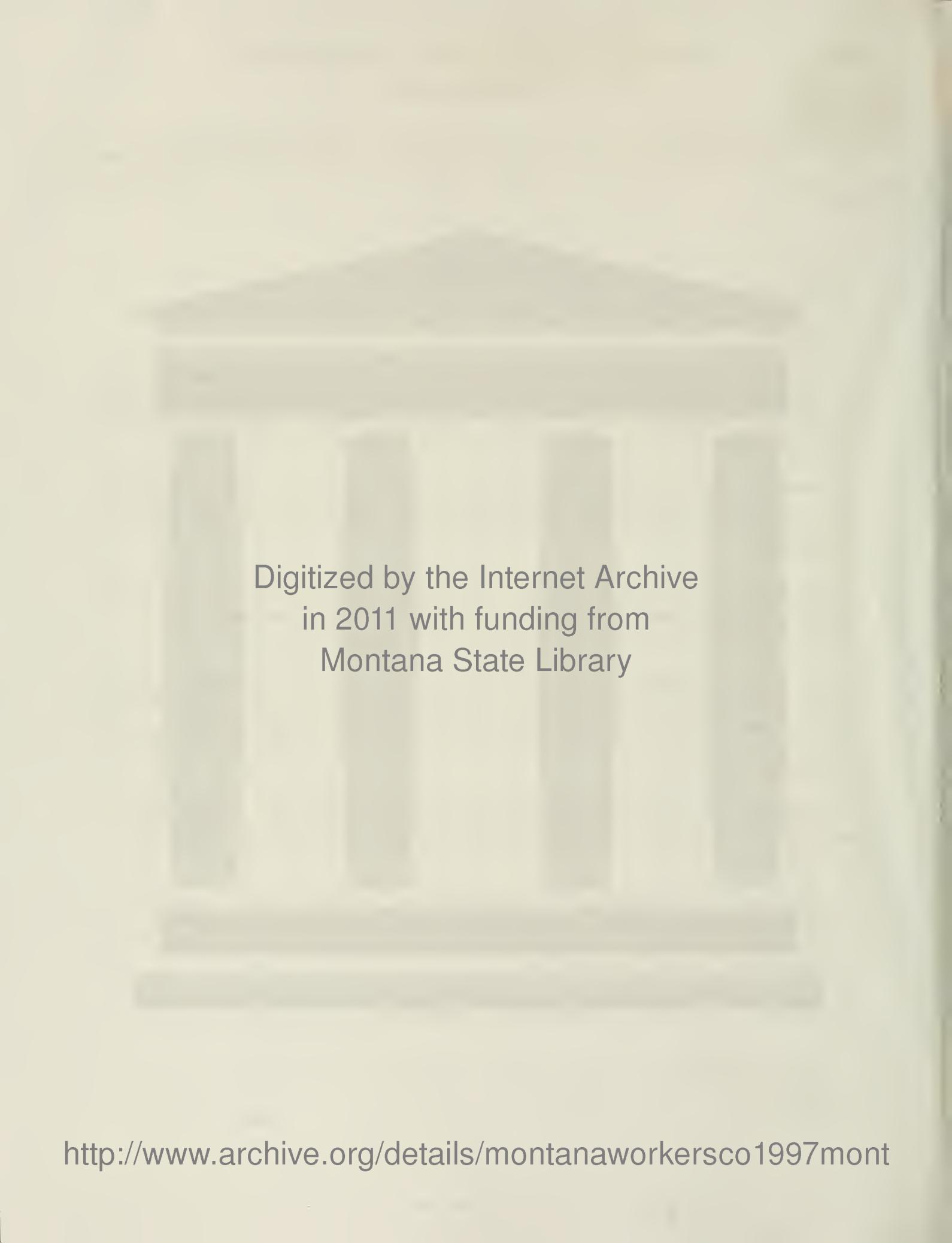
Technological advances such as this will allow us to increase responsiveness, minimize work, and provide better customer service.

Throughout the next year, the department will continue to pursue its mission of promoting the well-being and opportunities of Montana's workers and employers, and upholding the rights and responsibilities of both.

Our success in meeting our mission goals depends more than ever on input and feedback from all of our customers. In the example at hand, your suggestions have allowed us to improve our presentation of information in a clearer and more informative format. We will continue to solicit your feedback and ideas as we improve our report in the years to come.

Sincerely,

Pat Haffey
COMMISSIONER

A very faint, large watermark-like image of a classical building with four columns and a triangular pediment occupies the background of the page.

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Executive Summary

Listed below are the highlights found in the 1997 Workers' Compensation Annual Report prepared and printed by the Employment Relations Division (ERD) of the Department of Labor & Industry (Department). The report contains information about Montana's workers' compensation system; injury statistics and characteristics; benefits paid to claimants and payments made by insurers to others in the system; dispute resolution; and miscellaneous regulatory programs and functions.

Distribution of Employer Coverage by Plan

The upward trend in both gross annual payroll for self-insurers and premium dollars paid by employers to private carriers, compared to the downward trend in premium paid to the State Fund, reflects the changes occurring in the market share between Plans 1, 2 and 3.

Safety 6-7

The Safety Bureau of ERD completed 253 mandatory inspections of public employers and 109 on-site inspections of private employers. There were 88 coal mining inspections performed and 212 metal/nonmetal mining inspections.

The number of formal training sessions conducted by the Bureau, in FY97, almost doubled from FY96. This was due to the efforts of local safety groups initiated and supported by the Safety Bureau.

Independent Contractor Exemptions 8

The upward trend in total independent contractor exemptions, with the exemptions peaking in FY96, is consistent with the requirement for construction contractors to register with the Department. In FY97, construction accounted for 50% of new exemptions because of the construction contractor registration requirements.

Independent contractor exemption requirements are separate and distinctly different from construction contractor registration requirements. An individual who meets the definition of an independent contractor may apply for an exemption from obtaining workers' compensation insurance coverage as an individual. The purpose of construction contractor registration is to ensure all construction contractors are competing fairly by complying with state laws on workers' compensation, unemployment insurance and employer taxes. The construction contractor must provide proof of workers' compensation coverage or an independent contractor exemption to obtain the construction registration. The construction contractor registration law became effective July 1, 1995.

Professional Employer Organizations (PEOs) 9

The Department has licensed 10 PEOs, since the law became effective 7/1/95, who have contracted with 211 clients. An additional 12 applications are being processed.

Injury Statistics 11-20

There were 31,561 injuries reported for FY97 compared with 31,643 reported for FY96. The number of reported injuries by plan indicates injuries reported by the State Fund decreased by 13% from FY96; injuries reported by private carriers increased by 6% from FY96; and injuries reported by self-insurers increased by 21% from FY96.

Attorney representation as a percent of reported injuries remained consistent at 25% for FY96 and FY97.

Insurer Denials as a percent of reported injuries increased from FY96 to FY97. Denials were 7.5% in FY96 and 11.6% in FY97. 56% of all insurer denials in FY97 were due to lack of objective medical findings to substantiate an injury. Effective July 1, 1995, the workers' compensation act required a compensable injury be established by objective medical findings.

Most injuries in FY97 were strains, sprains, or ruptures caused by straining, jumping, or lifting. Upper extremities and the back were the most commonly injured parts of the body.

The service industry was responsible for 35% of all injuries reported in FY97. Retail trade had the second largest percentage of injuries, 17%.

Construction and manufacturing had the highest injury rates in FY97 compared to their employment rates.

Males reported 62% of all injuries in FY97, but they make up only 54% of the work force.

Ages 35 to 44 had the most injuries in FY97, but this age group also contained the most employees. Ages 15 to 24 and 45 to 54 reported the highest proportion of injuries relative to the number of employees.

Nearly 20% of all reported injuries in FY97 involved workers employed in their current job for less than a year.

Benefits 21-32

The declining trend in total indemnity (wage loss) and medical benefits paid by all insurers represents the effect of cost containment methods, early return to work strategies, and the reduction in benefits implemented by the Legislature.

Comparing total indemnity and medical benefit payments in FY93 with payments in FY97 shows a decrease of approximately \$36 million, or 21%.

The upward trend in both indemnity and medical benefit payments by self-insurers and private carriers, compared to the downward trend in the same payments by the State Fund, is another indication of the changes occurring in the market share between Plans 1, 2 and 3.

The graphs presented on pages 22-26 represent the payment information reported on subsequent reports to the Department by insurers for indemnity claims only. The average payment and duration by benefit type and date of injury is calculated to present a comparison between the benefits over time. This year's presentation contains data from claims closed during one year. The Department cautions readers against making comparisons or reaching conclusions based solely on this data. For example, the average temporary total disability payment on a FY93 injury represents up to five years of payments versus the average payment on a FY96 injury that represents up to only two years of payments. This year's presentation of the subsequent report data reflects the starting point. In the coming years, with the continued collection of this data, comparisons made and conclusions reached will reveal a more complete picture.

Average settlement amounts have been decreasing since 1987 corresponding to legislative reductions in benefits to injured workers.

The percent of claimants represented by an attorney at the time of settlement decreased since FY93 but remained consistently at around 50% since FY95.

Dispute Resolution 33-40

In FY97, the Occupational Disease Panel took an average of 90 days to complete a case. This is 20 days less than FY96.

Requests for mediation and contested case hearings as a percentage of injuries remained consistent at 3% for FY96 and FY97.

Mediation continued to resolve approximately 78% of its cases. On average, in FY97, mediation took 36 days to complete a case for which a conference was held and a written recommendation issued.

The number of requests for contested case hearings declined by 98, or 45%, between FY93 and FY97.

The number of petitions filed with the Workers' Compensation Court declined by 118, or 37%, between FY93 and FY97. The orders issued by the Court, however, increased from 48% in FY93 to 59% in FY97.

Cost of Regulatory Functions 45

The trend in rising regulatory costs peaked in FY95 at approximately \$4 million and declined to \$3.6 million in FY96. FY95 costs included the development of the workers' compensation database. The decline in FY96 was due to the implementation of administrative efficiencies achieved from working with insurers.

Subsequent Injury Fund 46-47

Total Subsequent Injury Fund (SIF) payments in FY97 for all dates of injury were \$269,686 compared to \$350,477 in FY96.

Plan 1 has paid less SIF assessment than the other plans over the five year period because it has paid less indemnity benefits. At the same time, it has reported more SIF claims and received higher reimbursement than the other two plans combined.

Due to the number of claims State Fund has each year, Plan 3 is assessed a higher amount. State Fund has had fewer claims than Plan 1 over the past five years. However, payments made by the SIF to State Fund are only 36% of the payments made to Plan 1.

Uninsured Employers Fund 48-49

Over \$6,000,000 in penalties were assessed against uninsured employers in FY97. This is higher than the amount assessed in FY96 of \$3,034,947. The increase is due to several very large penalty assessments.

Approximately \$1,606,177 in penalties were collected by the unit in FY97 compared with collections in FY96 of \$1,014,938. The increase is due to more aggressive collection efforts.

Managed Care Organizations (MCOs) 50

There are 11 MCOs certified and able to contract with insurers to provide coordinated care to injured workers.

Report Organization

The report is organized into six major sections:

Montana Workers' Compensation System

This section provides a look at Montana's system from both a historical and present viewpoint. Workers' compensation insurance is required for most types of employment. This section describes the three options for obtaining coverage in Montana. The distribution of employers covered under the three options is represented by the five-year graphs of gross annual payroll and amount of premiums paid.

The safety information represents one of the system's strategies to assist employers in preventing injuries and reducing the number of injured workers in need of benefits.

Independent Contractors may apply for exemptions from workers' compensation insurance in Montana. The information about exemptions presents this information for the past five years.

Professional Employer Organizations (PEOs) contract with client companies to provide workers and other payroll-related services. The narrative describes the number of PEOs in Montana and how many clients are presently using the services of PEOs.

Injury Statistics

Occupational injuries and illnesses are the force that drives many of the statistics in this report such as safety education and training, benefit payments, attorney involvement, dispute resolution, and regulatory responsibilities. This section describes these injuries and illnesses and the people who sustain them.

Benefits

This section describes the indemnity (wage loss) and medical benefits paid to injured workers. It also describes how and when the benefits are paid. Payments made to others in the system such as attorneys, medical providers, rehabilitation providers, etc. are included in this section.

Dispute Resolution

Montana's system encourages timely and cost-effective resolution of disputes that arise between the parties involved in the system. Included here is information about the dispute resolution processes of the system.

Department Administered Programs & Regulatory Responsibilities

The Department of Labor & Industry (Department) regulates workers' compensation in Montana. This section provides information on the costs of regulatory functions and program information on the Subsequent Injury Fund, Uninsured Employers Fund, and Managed Care Organizations. There is also a narrative about the workers' compensation database and electronic data interchange (EDI). This section contains information on only three Department programs and is not intended to present all the programs administered by the Department.

Appendices

Definitions, methodology, future annual reports and the supplemental reference are included in this section.

Montana Workers' Compensation System . . .

Overview

History of Workers' Compensation

Workers' Compensation in Montana

Gross Annual Payroll - Plan 1

Premium Dollars - Plan 2 & 3

Safety

Independent Contractor Exemptions

Professional Employer Organizations

Overview

This section contains an overview of the history of workers' compensation, a description of the three different types of insurance coverage available in Montana, and the following information:

the gross annual payroll of those employers approved to self-insure in Montana.

- ◆ insurance premiums, by plan type, employers are paying for workers' compensation.
- ◆ program information about the Department of Labor & Industry's (Department) Safety Bureau. The

Bureau is responsible for administering the state's industrial safety laws. The laws are designed to prevent the occurrence of injuries.

- ◆ the number of Independent Contractor exemptions issued by the Department over the past five fiscal years, and the industry classification of the new exemptions issued in FY97.
- ◆ the number of Professional Employer Organizations (PEOs) licensed by the Department.

History of Workers' Compensation

Workers' compensation laws provide no-fault insurance protection and benefits for employers and workers in the event of an industrial accident or occupational disease.

Prior to the development of workers' compensation programs, common law principles held that employers were responsible for injuries or fatalities of employees resulting from negligent acts of the employer. Workers injured on the job could sue their employers for damages, but had to prove negligence on the part of the employer. This was often a lengthy and costly legal process with high monetary risk for both parties. As the industrial revolution led to a much higher rate of industrial injuries, it became apparent the court system operated too slowly and harshly to bring speedy, low cost resolution to cases involving workplace injuries.

Montana was one of the first states to recognize the need for workers' compensation legislation. In 1909, the Legislature passed a compensation system for coal miners, which was the second compensation law enacted in the United States. Two years later the Act was declared unconstitutional. In 1915, the Legislature again enacted a workers' compensation law. These laws covered employment that was considered hazardous with optional coverage for nonhazardous employment. In 1973 the Legislature repealed the hazardous employment designation and provided the mandatory coverage requirements for all employments that we have today.

The basic objectives of the 1973 laws were as follows:

- provide speedy access to medical benefits;

- provide wage replacement benefits, regardless of who was at fault;
- prevent costly personal injury lawsuits;
- reduce legal costs;
- ease the burden on the courts;
- encourage employers to provide safe workplaces;
- reduce the number of accidents through experience rating and the study of the cause of injuries.

Employers must provide workers' compensation insurance for their employees. By providing this insurance coverage, they are granted freedom from being sued for an injury. A worker's sole right to redress is in the benefits provided under the insurance so workers cannot sue their employer. This protection is referred to as the "exclusive remedy" of workers' compensation.

Employers are responsible for the cost of workers' compensation insurance, and that cost cannot be withheld from an employee's gross wages. Workers' compensation laws are under jurisdiction of the states. No federal requirements or standards govern how states choose to operate their programs.

Workers exempt from workers' compensation include: domestic and casual employment, family members, employers covered by federal law (railroad workers), persons performing services for aid and sustenance only, officials at amateur athletic events, real estate brokers and salespersons, direct sellers of consumer goods, dependent members of employer's family for whom the employer may claim an exemption under the federal tax code, newspaper carriers and freelance correspondents, cosmetologists and barbers, and individuals who have an independent contractor exemption.

Workers' Compensation in Montana

A workers' compensation system is a complicated network of organizations which

includes
insurance
carriers,
adjusters,
medical
providers,
attorneys,
state
regulatory
agencies,
rehabilitative
service
providers,



employers, and workers. The Montana system allows three different types of insurance coverage. Employers may self-insure for workers' compensation (Plan 1), buy insurance from a private insurance company (Plan 2), or buy insurance from the state-administered insurance company, State Compensation Insurance Fund (Plan 3).

To self-insure, an employer must meet certain business and financial criteria and must be approved by the Montana Department of Labor & Industry and the Montana Self-Insurers Association. As of 6/30/97, there were 525 employers approved to self-insure:

55 individual employers and eight groups covering 470 employers.

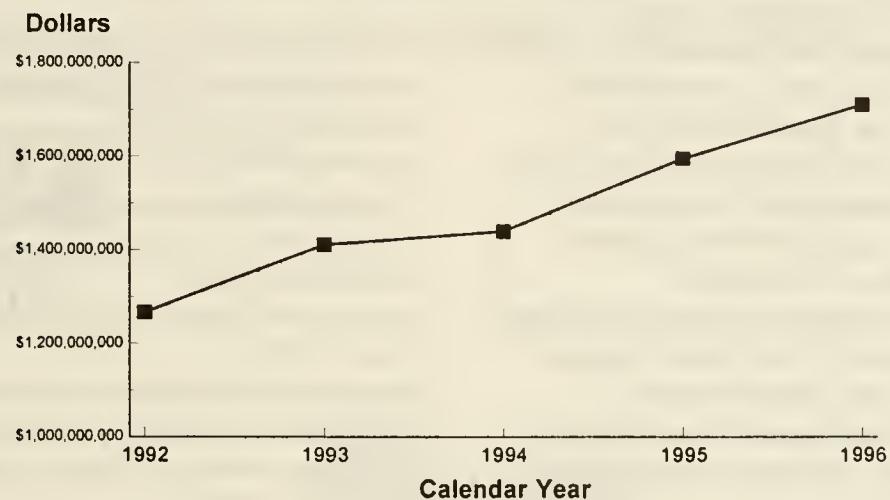
Private insurers must be approved to write workers' compensation in Montana by the Insurance Commissioner. As of 6/30/97, there were 242 private insurers approved in Montana.

The State Compensation Insurance Fund (State Fund) is administered by the State of Montana. It operates in the competitive marketplace with private insurers. State Fund is the insurer of last resort in Montana and must provide insurance to any employer who wishes to buy a policy. This requirement does not apply to private insurance companies.



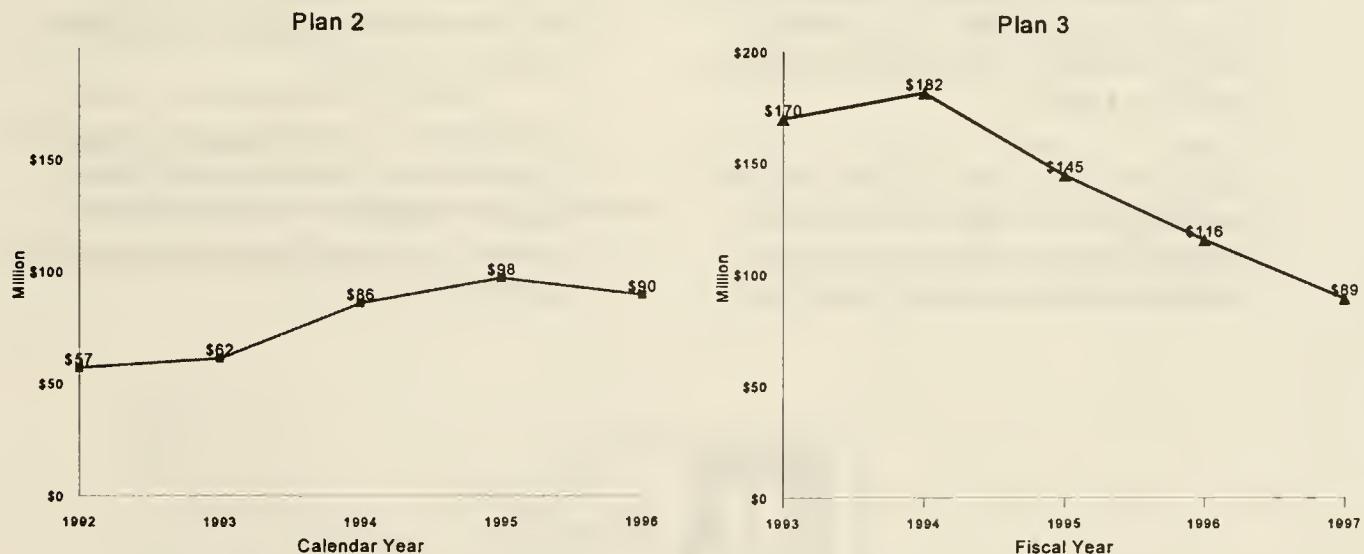
Gross Annual Payroll - Plan 1

Calendar Year Gross Annual Payroll for Plan 1



Plan 1 \$1,267,171,492 \$1,412,068,026 \$1,440,792,210 \$1,597,336,997 \$1,713,291,665

*Premium Dollars - Plan 2 & 3**



*Plan 1 employers pay no premium

- ◆ These graphs reflect the changes occurring in the market share.

Safety

The Safety Bureau is responsible for administering the state's industrial safety laws. This involves mandatory workplace safety inspections in public sector workplaces (city, county, and state governments), coal mines and metal/non-metal mines. The Bureau's goal is to minimize employee illnesses and injuries by enforcing the intent of the various safety statutes and to support federally funded Occupational Safety and Health Administration (OSHA) voluntary programs in the private sector. The ultimate goal of all activities of the Safety Bureau is to reduce worker injuries and illnesses and to reduce workers' compensation premiums. Non-mining private sector employers are covered by federal OSHA with regard to inspection activities.

The Safety Bureau inspects public workplaces and issues orders for correction of hazards to provide a safe work environment. Federal OSHA preempts inspecting private places of business. Safety and health consultations are available to private employers upon request, thanks to a grant from OSHA.

Mining inspections are conducted on surface and underground mines (coal, metal/non metal) and related industries (gravel pits, crushing operations, cement plants, talc

mills, etc.). Mines are required to comply with safety and health standards contained in the mine safety statutes.

The Federal Mines Safety and Health Administration (MSHA) has provided the Safety Bureau with a training grant to conduct safety training for employers and employees of small mines. Mine operators are assisted in developing acceptable training plans so that their employees recognize hazardous conditions in a mining operation.



The Safety Culture Act, passed in the 1993 legislative session, is designed to foster safe work practices, beginning with the students in Montana's schools and progressing through to employers. Potential employees are taught as early as middle school the effect unsafe work practices can have on their lives and their workers' compensation insurance premiums.

All employers in Montana are now required to implement an education-based safety program. Employers with more than five employees are required to have active safety committees.

Public Management Information Data Report
Safety Bureau
Fiscal Year 1997

Safety and Health Section	Employer Sector			
	Public		Private	
	FY96	FY97	FY96	FY97
Mandatory Inspections Performed	241	253	--	--
On-site Inspection Performed	--	--	106	109
Requests for Technical Assistance	179	307	202	291
Formal Training Sessions Conducted	23	60	28	42
Workers Trained	618	1,676	660	991



Mining Section	Coal		Metal/Nonmetal	
	FY96	FY97	FY96	FY97
Inspections Performed	57	88	196	212
Mine Training Sessions Conducted	12	9	85	96
Workers Trained	372	225	980	1,134
Coal Mine Foreman Training Sessions Conducted	5	7	--	--
Coal Mine Foreman Trained	66	47	--	--



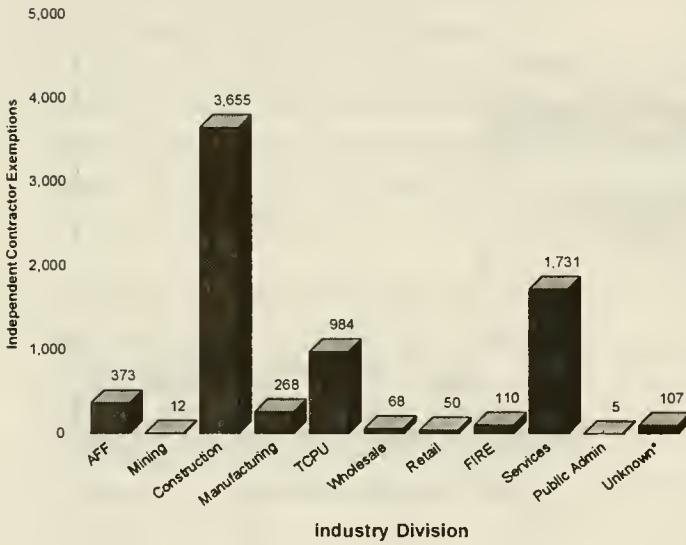
Independent Contractor Exemptions

The Department issues exemptions to individuals who qualify as independent contractors. An individual who has an independent contractor exemption is not covered for workers' compensation benefits or unemployment insurance. An independent contractor is an individual who renders service in the course of an occupation, has been and will continue to be

free from control or direction over the performance of the services, and is engaged in an independently established trade, occupation, profession, or business. The Employment Relations Division may require additional information or perform random verifications in an effort to ensure the independent contractor status is valid.

Independent Contractor Exemptions By Industry

New Exemptions Issued in FY97

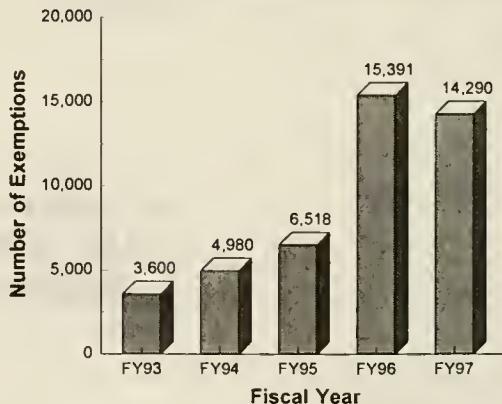


AFF = Agriculture, Forestry & Fishing
TCPU = Transportation, Communication & Public Utilities
FIRE = Finance, Insurance & Real Estate
* Refer to Industry Division under Methodology in the appendix for an explanation.

As of June 30, 1997, there were 14,290 active independent contractor exemptions.

- ◆ There were 7,363 new independent contractor exemptions issued during Fiscal Year 1997.
- ◆ In FY97, construction accounted for approximately 50% of all new exemptions. The service industry had the second largest number of independent contractor exemptions, 23%.

Total Independent Contractor Exemptions by Fiscal Year



Professional Employer Organizations

Professional Employer Organizations (PEOs) are required to be licensed by the Department of Labor and Industry prior to supplying workers to client companies. In general, PEOs contract with client companies to provide workers and other payroll-related services, relieving the client from the administrative paperwork associated with employing workers. Since

the law's inception of 7-1-95, the Department has licensed 10 who have contracted with 211 clients. An additional 12 applications are being processed. In order to become licensed, PEOs must submit an application and include proof of workers' compensation coverage for all workers supplied to client locations.

Injury Statistics . . .

Overview

Comparison of Number of Injuries by Plan Type

Attorney Representation

Insurer Denials of Injuries

Profile of an Injured Worker

Injured Worker Characteristics

Injury Characteristics

Overview

This section describes the number of injuries that occur, the percentage of injured workers represented by an attorney, how many injuries are denied by insurers and why they're denied, who gets hurt in the workplace, how occupational diseases and injuries happen, what causes them, where they happen and when they occur. Many of these data elements are collected from the First Report of Injury.

The titles of the graphs displayed in this section use the word "injury" in the description. This was done to make the title short and succinct, but "injury" includes both occupational injuries and diseases. Refer to the Definitions section in the Appendix for explanations of occupational

injury and occupational disease. The industry divisions are categorized using Standard Industrial Classification (SIC) Codes. Refer to the Definitions section in the Appendix for a detailed explanation of those codes.

The codes used to define the cause, nature, and part of body of the occupational disease or injury are standard codes from the National Council on Compensation Insurance - Detailed Claim Information (NCCI-DCI). These codes were defined and categorized into similar groups for use in this report. Refer to the Definitions Section in the Appendix for the detailed explanation of the code categories.

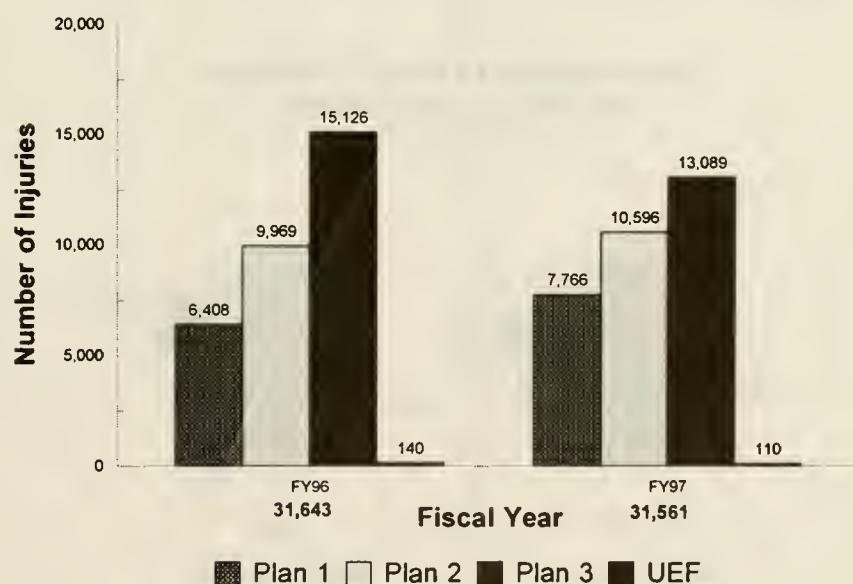
Comparison of Number of Injuries by Plan Type

Reported Injuries by Plan Type

	FY96	FY97	
Plan 1	6,408	20.3%	7,766
Plan 2	9,969	31.5%	10,596
Plan 3	15,126	47.8%	13,089
UEF	140	0.4%	110
TOTAL INJURIES	31,643*	100%	31,561
		100%	100%

Number of Reported Injuries

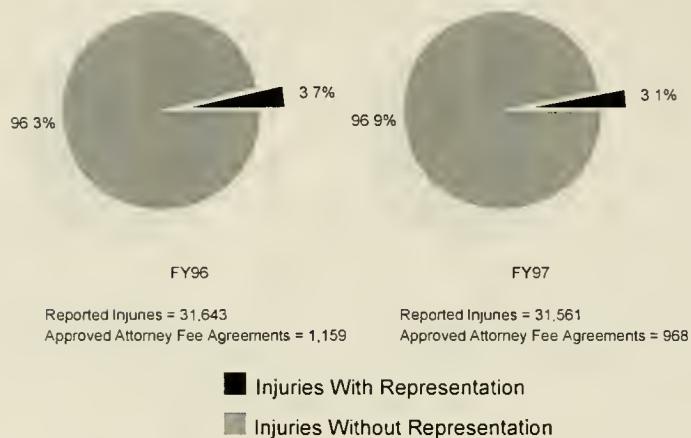
by Plan Type for FY96 and FY97



*Since last year's annual report, 124 FY96 injuries were reported to the Department.
UEF = Uninsured Employers Fund.

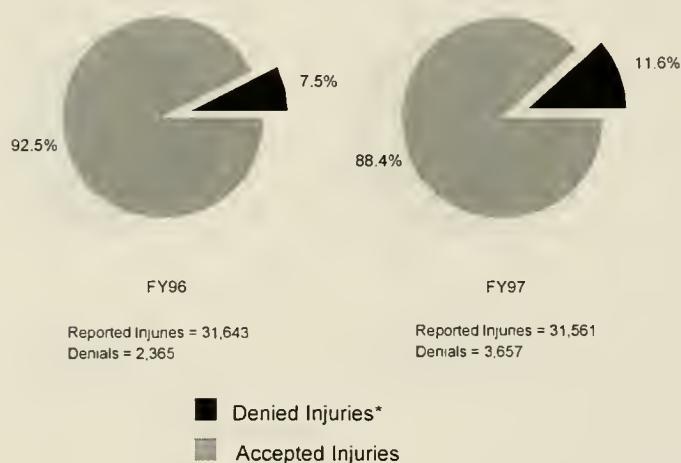
Attorney Representation

**Attorney Representation as a Percent of
Reported Injuries/Occupational Disease
for FY96 and FY97**



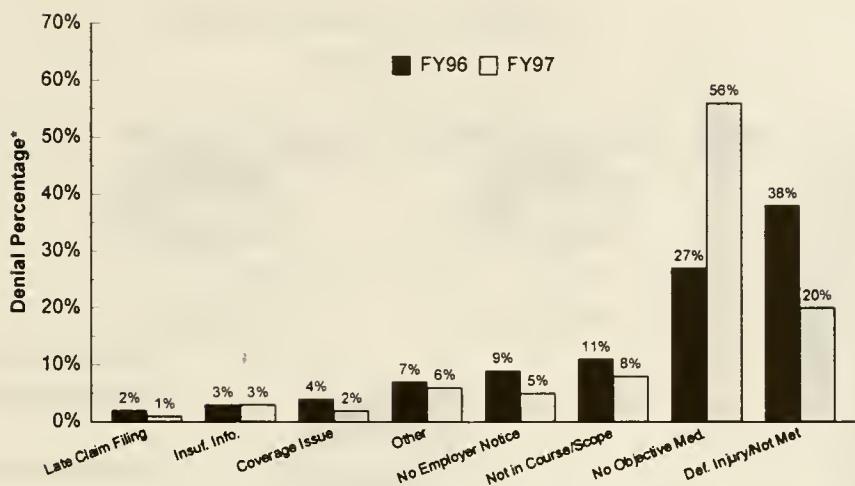
Insurer Denials of Injuries

**Insurer Denials as a Percent of Reported
Injury/Occupational Diseases
for FY96 and FY97**



* The initial denial may later result in an acceptance by the insurer. Statistics on accepted injuries subsequent to a denial are not available from the database.

**Reason for Insurer Denials of
Injury/Occupational Diseases
for FY96 and FY97**



*Percentages were rounded to the nearest whole percent.

Reason		FY96	FY97
Late Claim Filing	Injury	37	18
	Occupational Disease	7	1
Insufficient Information	Incomplete or missing information necessary to accept liability	65	92
Coverage Issue	Corporate officer rejected	12	13
	Elects no coverage	16	11
	Independent Contractor issue	2	3
	Question which insurer liable	36	29
	No coverage	26	22
Other	Other	164	209
No Employer Notice	No 30-day notice to employer or insurer	219	180
Not in Course & Scope	Not in course and scope of employment	253	303
No Objective Medical	No objective medical findings to substantiate injury	628	2035
Definition of Injury not Met	Heart attack - not caused by accident	22	23
	Does not meet definition of injury	670	595
	Does not meet definition of Occupational Disease	87	50
	Stress - not compensable	33	28

Profile of an Injured Worker

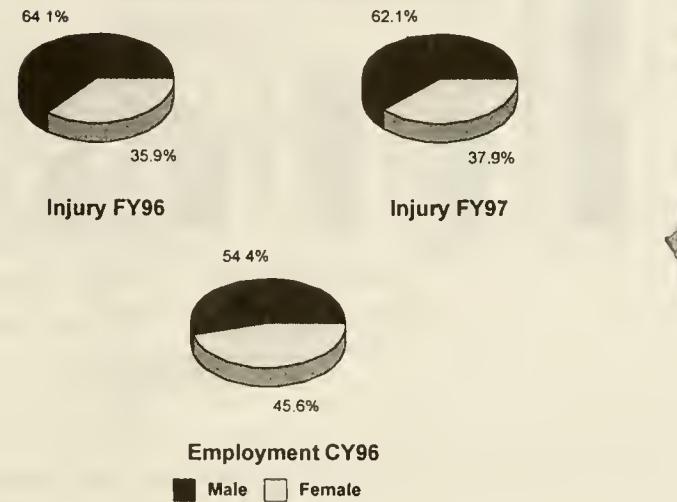
Profile of the Typical Injured Employee in FY97



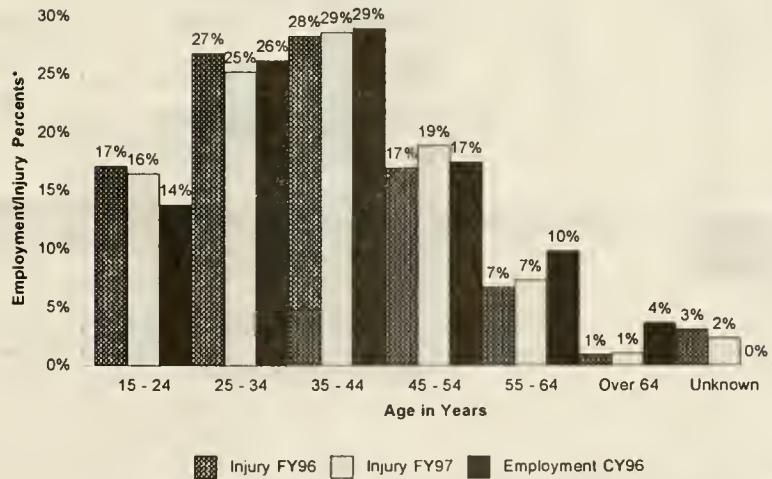
- ◆ Male (62.1 %) with a median age of 35 - 44.
- ◆ Employed less than a year at the time of the injury.
- ◆ Employed in a service industry (35%), a retail trade (17%), or public administration (11%).
- ◆ Strain or sprain injury (36%) caused by a strain, jump or lift (27%) or by a slip or fall (17%).
- ◆ Injured an upper extremity (30%), his back (19%), or his head (11%).

Injured Worker Characteristics

Employment and Injury Comparisons by Gender



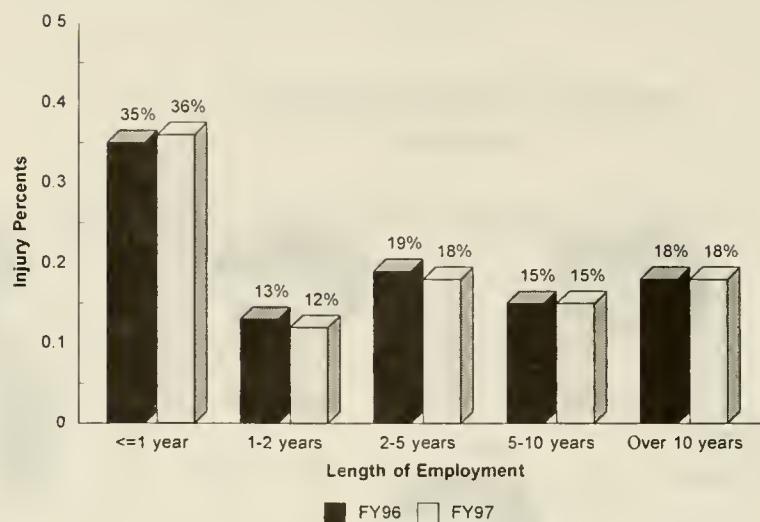
Employment and Injury Comparisons by Age of Injured Worker for FY96 and FY97



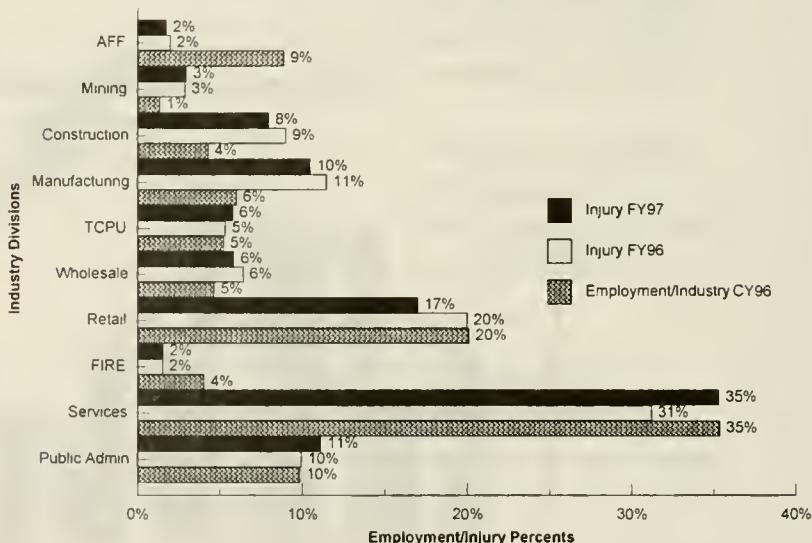
Employment CY96 = Employment for calendar year 1996.
*Percentages were rounded to the nearest whole percent

- ♦ Employment distribution by gender and age is unavailable for a Fiscal Year period.
- ♦ “Unknown” includes all records where age was not reported on the First Report of Injury.

**Length of Employment at Time of Injury
for FY96 and FY97**



**Employment and Injury Comparisons
by Industry for FY96 and FY97**



- ◆ Percentages were rounded to the nearest whole percent.
- ◆ Employment distribution by industry is unavailable for a Fiscal Year period.

AFF = Agriculture, Forestry & Fishing

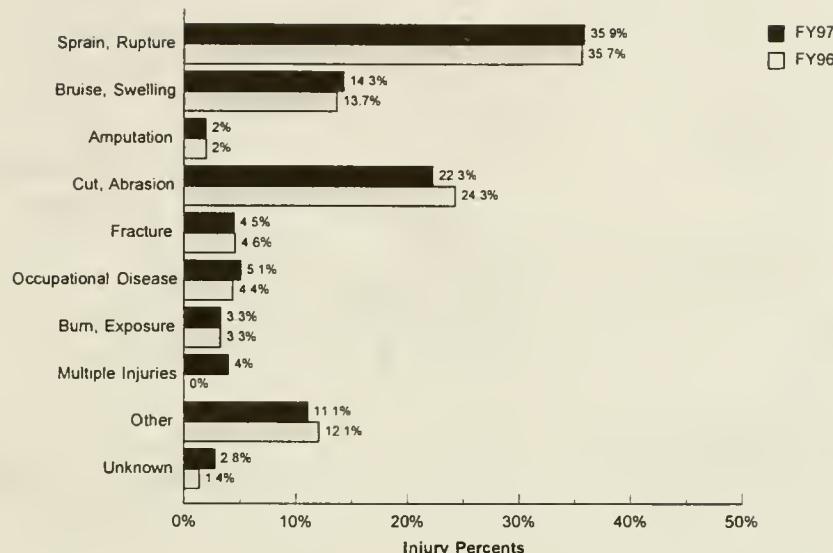
TCPU = Transportation, Communication & Public Utilities

FIRE = Finance, Insurance & Real Estate

Injury Characteristics

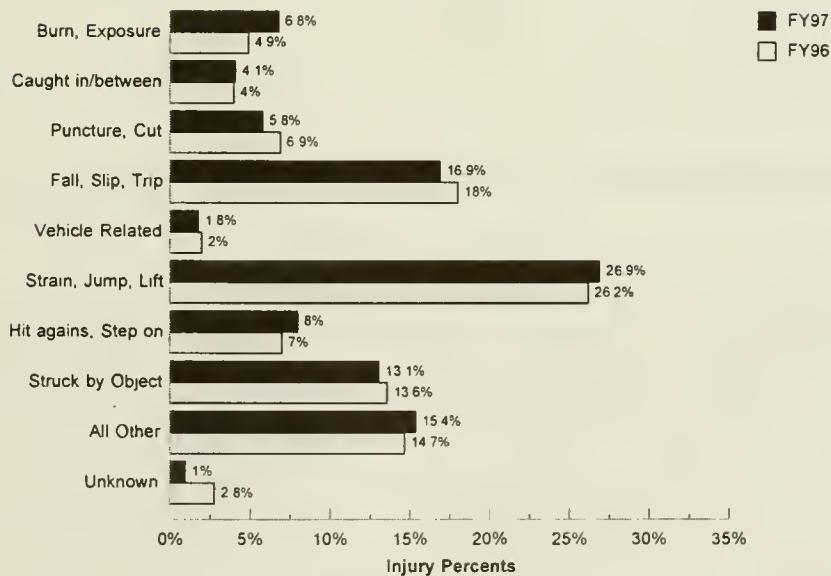
Nature of Injury

For FY96 and FY97



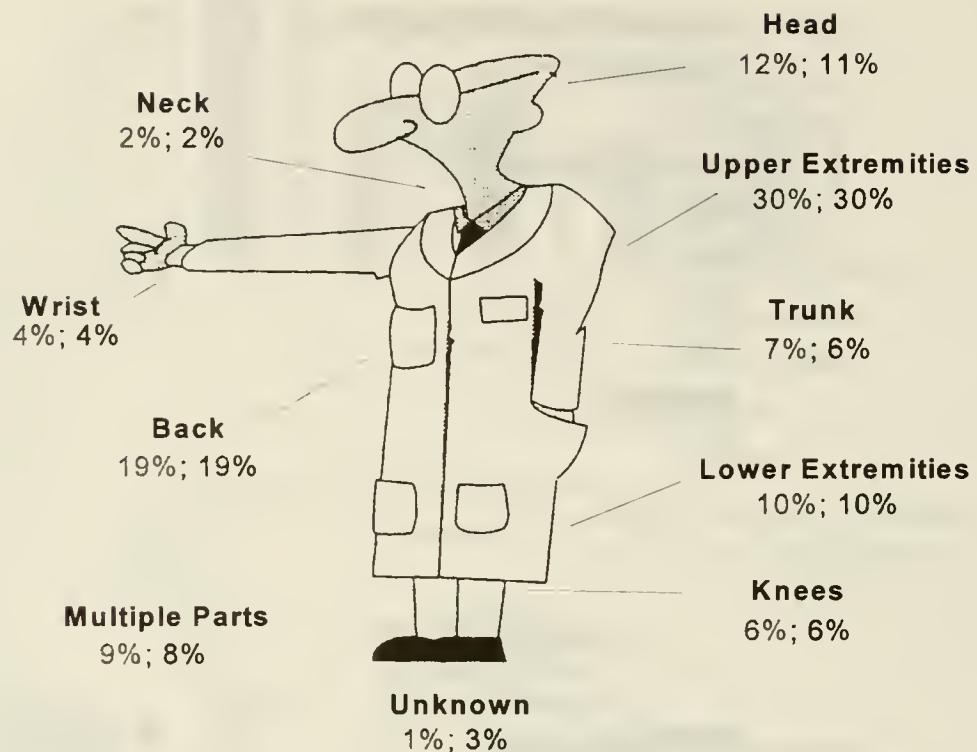
Cause of Injury

For FY97 and FY96



- ◆ Percentages were rounded to the nearest whole percent.
- ◆ Refer to the Definitions section in the appendix for an explanation of nature and cause codes.
- ◆ “Unknown” includes all records where the nature or cause was not reported or where the code could not be converted to NCCI-DCI codes.

Part of Body Injured For FY96 and FY97*



*Percentages are listed in order by fiscal with FY96 listed first and FY97 listed second.

- ◆ Percentages were rounded to the nearest whole percent.
- ◆ Refer to the Definition section in the Appendix for an explanation of Part of Body codes.
- ◆ "Unknown" includes all records where the part of body was not reported or where the code could not be converted to NCCI-DCI codes.

Benefits . . .

Overview

Total Benefits

Subsequent Report Data

Settlement Dollars & Attorney Fees

Rehabilitation

Overview

Beginning this year, this section includes information from the subsequent report submitted to ERD from insurers. The subsequent report yields information about the benefits paid on a claim. This section includes:

- ◆ the amount of indemnity payments (payments covering wage loss due to an occupational disease or injury) by plan type.
- ◆ the amount of medical payments by plan type.
- ◆ the average indemnity payments by type of disability by date of injury on all reported claims closed and settled in FY97.
- ◆ the average duration in weeks that benefits were paid.
- ◆ the average indemnity payments by body part by type of disability on reported claims closed and settled in FY97.
- ◆ the average payment for other benefits on reported claims closed and settled in FY97.
- ◆ a comparison of the average indemnity

payments by type of disability by date of injury between reported injury and occupational disease claims closed and settled in FY97.

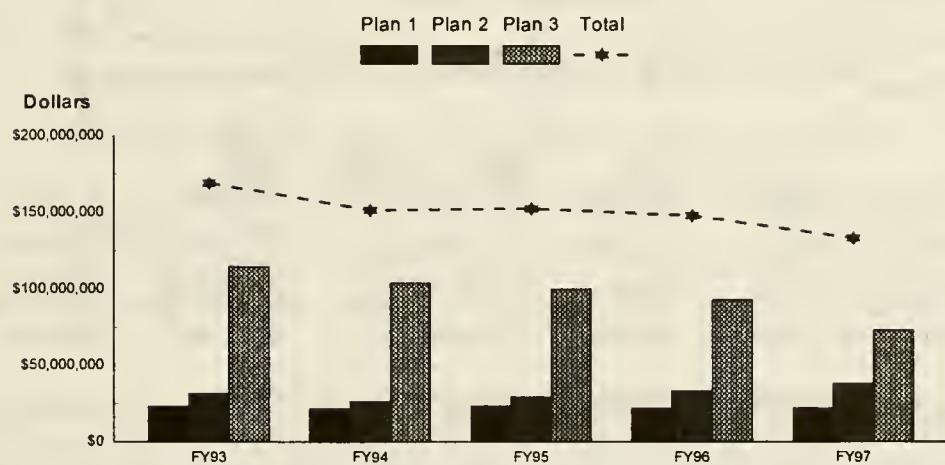
- ◆ average time interval between date of injury and benefit start date.
- ◆ average time interval between date of injury and release to return to work.
- ◆ the number of occupational diseases and injuries settled.
- ◆ the total settlement amount.
- ◆ the amount of attorney fees for settled claims paid by plan type.
- ◆ description of rehabilitation benefits.

A supplement is available from the Department of Labor and Industry. [Settlement Attorney Fees for Fiscal Year 1997](#) provides detailed settlement attorney fee data. To request a copy of this supplement, contact John Weida:

Phone: (406) 444-4661
Fax: (406) 444-4140
Internet: joweida@mt.gov

Total Benefits

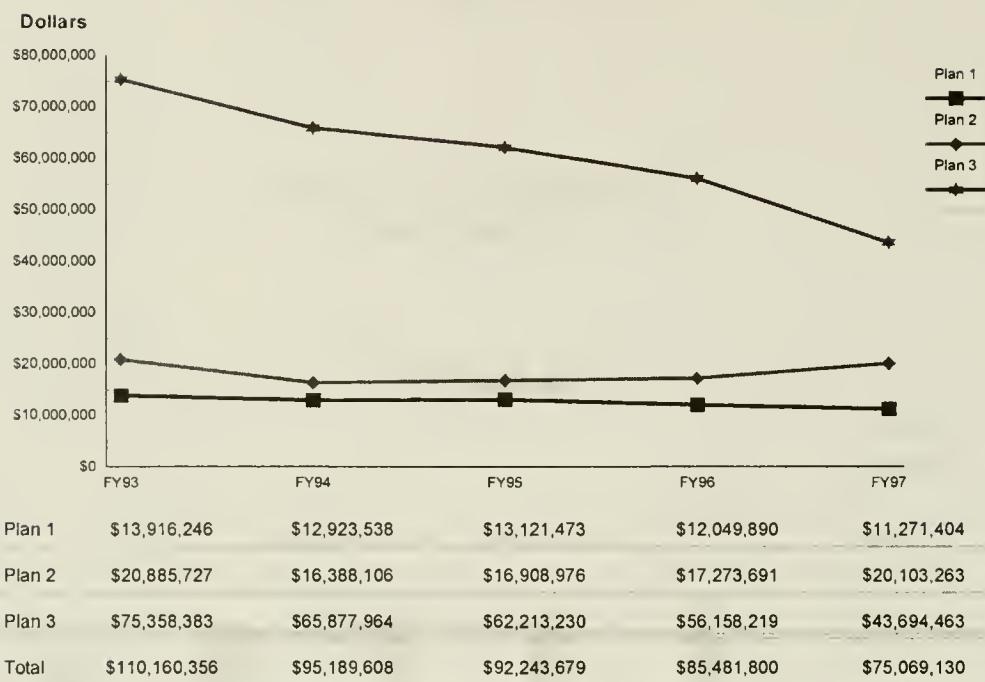
Total Benefits Paid by Plan by Fiscal Year



Plan 1	\$23,256,654	\$21,479,354	\$23,384,141	\$22,044,566	\$21,976,247
Plan 2	\$31,525,333	\$26,278,095	\$29,365,773	\$33,268,989	\$38,146,291
Plan 3	\$114,628,383	\$103,879,964	\$99,997,230	\$92,775,219	\$73,036,463
Total	\$169,410,370	\$151,637,413	\$152,747,144	\$148,088,774	\$133,159,001

- ◆ Total benefits represent indemnity and medical.

Indemnity Payments to Claimants by Plan by Fiscal Year



- ◆ Plan 1 and Plan 2 payments remained approximately the same during the five fiscal years.
- ◆ Plan 3 indemnity (wage loss) payments declined over the years.

Total Medical Payments by Plan by Fiscal Year



- ◆ Plan 1 and Plan 2 payments increased during the five fiscal years.
- ◆ Plan 3 payments declined over the years.

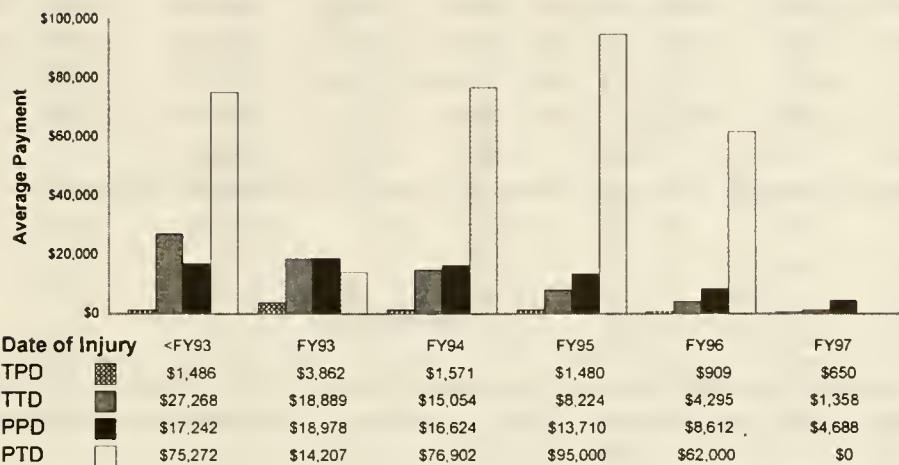
Subsequent Report Data

for Plans 1, 2, 3, and UEF
 (Pages 25 through 29)

Average Indemnity Payment by Type of Disability

by Date of Injury on Injury and OD Claims

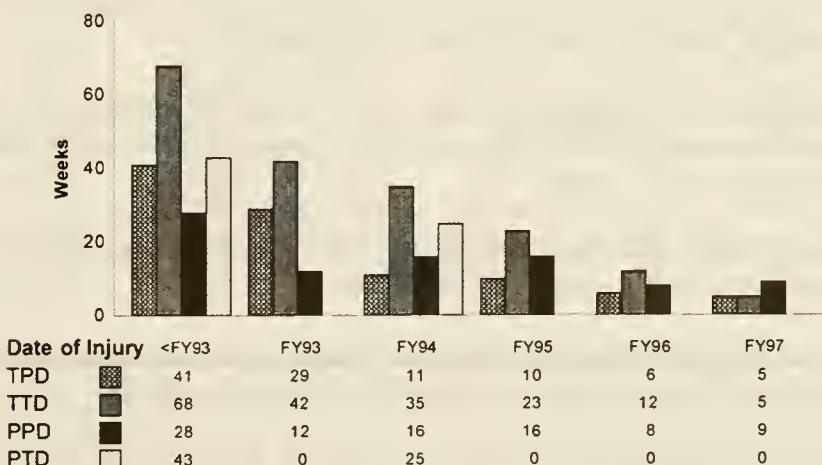
Closed or Settled in FY97



- ◆ Insurers reported only one permanent total disability claim closed or settled in FY97 with an injury date in FY93. Insurers reported two permanent total disability claims closed or settled in FY97 with dates of injury in FY95, one in the amount of \$150,000 and the other for \$40,000. Insurers reported only one permanent total disability claim closed or settled in FY97 with an injury date in FY96. There were no reports of closed or settled permanent total disability claims with an injury date in FY97.

Average Duration Benefit Paid

in Weeks by Date of Injury
 on Injury & OD Claims Closed & Settled in FY97



TPD = Temporary Partial Disability
 PPD = Permanent Partial Disability
 OD = Occupational Disease

TTD = Temporary Total Disability
 PTD = Permanent Total Disability

Average Payment for Other Benefits
 by Type & Date of Injury
 on Claims Closed or Settled in FY97

	Insurer Legal Expenses	Claimant Legal Expenses	Payments to Physician	Hospital Costs	Other Medical	Voc Rehab Evaluation	Voc Rehab Education	Other Voc Rehab	Consultant/Expert Witness Fee
<FY93	\$7,006	\$2,115	\$7,329	\$11,300	\$2,703	\$505	\$4,328	\$1,951	\$0
FY93	\$1,491	\$965	\$6,597	\$9,886	\$2,898	\$2,431	\$4,949	\$1,766	\$0
FY94	\$3,392	\$897	\$3,960	\$6,321	\$3,300	\$1,636	\$2,704	\$1,675	\$66
FY95	\$509	\$925	\$3,340	\$9,000	\$1,391	\$1,817	\$2,152	\$1,414	\$672
FY96	\$823	\$721	\$1,836	\$2,609	\$1,404	\$1,739	\$2,462	\$1,418	\$1,066
FY97	\$282	\$605	\$867	\$1,366	\$767	\$1,184	\$1,642	\$952	\$0

- ◆ These averages do not include reported recoveries from subrogation, overpayments, or other.

Definitions

Insurer Legal Expense Paid to Date: The amount paid by the insurer for the services of an attorney or authorized representative to defend against a proceeding brought under the Workers' Compensation Law.

Claimant Legal Expense Paid to Date: The amount specified in the award or paid without an award by the employer or insurer for the fee of the claimant's attorney or authorized representative.

Total Payments to Physicians: The amount paid to date to treating physician(s), including all clinic and office visits.

Hospital Costs Paid to Date: The costs of both inpatient and outpatient services paid to date which the injured employee received because of the work related injury.

Other Medical Paid to Date: All other paid to date medical costs not included in payments to physicians or hospital costs, i.e. laboratory tests, prescriptions.

Vocational Rehabilitation Evaluation Expense Paid to Date: The amount paid to date expenses for testing and evaluating the claimant's ability, aptitude, or attitude in determining suitability for vocational rehabilitation or placement.

Vocational Rehabilitation Education Paid to Date: The paid to date training costs including tuition, books, tools, transportation and additional living expenses.

Other Vocational Rehabilitation Education Paid to Date: The amount paid for any other phases of the vocational rehabilitation program not reported in the other benefit types.

Consultant/Expert Witness Fees Paid to Date by Insurer: The amount paid by the insurer in a legal proceeding for expert testimony or opinion.

These are NCCI-DCI code definitions.

Average Indemnity Payment by Part of Body

by Type of Disability by Date of Injury on
Injury & OD Claims Closed and Settled in FY97

		<FY93	FY93	FY94	FY95	FY96	FY97
Head or Neck	TPD	\$0	\$0	\$0	\$0	\$886	\$97
	TTD	\$32,513	\$2,648	\$24,549	\$19,603	\$4,241	\$2,318
	PPD	\$8,627	\$11,286	\$17,888	\$4,174	\$13,366	\$13,976
	PTD	\$100,000	\$0	\$118,450	\$0	\$0	\$0
Upper Extremity	TPD	\$389	\$0	\$0	\$944	\$606	\$546
	TTD	\$16,901	\$28,219	\$10,183	\$6,352	\$3,069	\$1,327
	PPD	\$17,865	\$3,839	\$24,497	\$11,650	\$5,313	\$3,520
	PTD	\$52,307	\$0	\$0	\$0	\$0	\$0
Wrist	TPD	\$0	\$37	\$0	\$464	\$1,501	\$484
	TTD	\$15,004	\$10,665	\$4,013	\$6,239	\$4,801	\$1,846
	PPD	\$15,198	\$8,767	\$0	\$14,157	\$6,570	\$5,292
	PTD	\$63,889	\$0	\$0	\$0	\$0	\$0
Trunk	TPD	\$0	\$0	\$349	\$0	\$1,029	\$391
	TTD	\$55,485	\$27,937	\$10,652	\$7,009	\$5,302	\$1,652
	PPD	\$21,741	\$35,984	\$14,596	\$27,471	\$11,990	\$8,252
	PTD	\$71,082	\$0	\$0	\$0	\$0	\$0
Back	TPD	\$1,621	\$0	\$2,177	\$2,242	\$1,131	\$825
	TTD	\$33,553	\$32,873	\$17,506	\$8,831	\$5,481	\$1,007
	PPD	\$19,825	\$19,357	\$15,402	\$14,226	\$10,876	\$7,031
	PTD	\$79,911	\$14,207	\$91,321	\$40,000	\$62,000	\$0
Lower Extremity	TPD	\$0	\$554	\$617	\$1,183	\$258	\$624
	TTD	\$18,238	\$13,246	\$13,241	\$10,007	\$2,744	\$1,382
	PPD	\$13,327	\$6,824	\$22,030	\$17,402	\$8,819	\$3,561
	PTD	\$142,376	\$0	\$17,927	\$0	\$0	\$0
Knee	TPD	\$0	\$2,485	\$2,688	\$1,224	\$560	\$426
	TTD	\$17,737	\$9,252	\$10,772	\$7,941	\$3,150	\$1,648
	PPD	\$15,351	\$40,753	\$12,278	\$12,755	\$5,647	\$2,884
	PTD	\$70,036	\$0	\$0	\$0	\$0	\$0
Multiple Parts	TPD	\$0	\$8,680	\$548	\$769	\$1,603	\$728
	TTD	\$26,630	\$13,005	\$12,031	\$7,775	\$5,244	\$1,136
	PPD	\$20,126	\$10,153	\$14,969	\$9,156	\$7,342	\$4,125
	PTD	\$15,051	\$0	\$0	\$150,000	\$0	\$0
Unknown	TPD	\$1,907	\$4,589	\$1,402	\$0	\$0	\$0
	TTD	\$18,832	\$13,688	\$19,115	\$12,911	\$7,530	\$1,705
	PPD	\$13,354	\$25,083	\$15,673	\$22,295	\$14,401	\$3,057
	PTD	\$77,433	\$0	\$79,909	\$0	\$0	\$0

♦ Insurers reported only one permanent total disability claim closed or settled in FY97 with an injury date in FY93. Insurers reported two permanent total disability claims closed or settled in FY97 with dates of injury in FY95, one in the amount of \$150,000 and the other for \$40,000. Insurers reported only one permanent total disability claim closed or settled in FY97 with an injury date in FY96. There were no reports of closed or settled permanent total disability claims with an injury date in FY97.

TPD = Temporary Partial Disability

PPD = Permanent Partial Disability

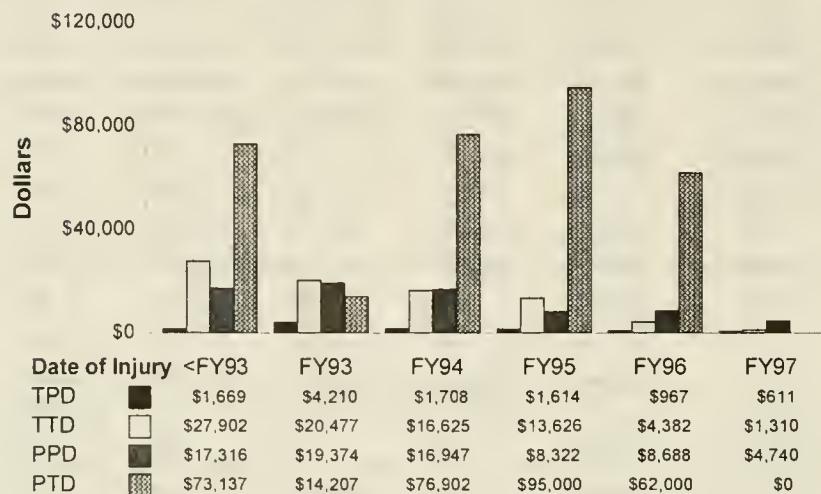
OD = Occupational Disease

TTD = Temporary Total Disability

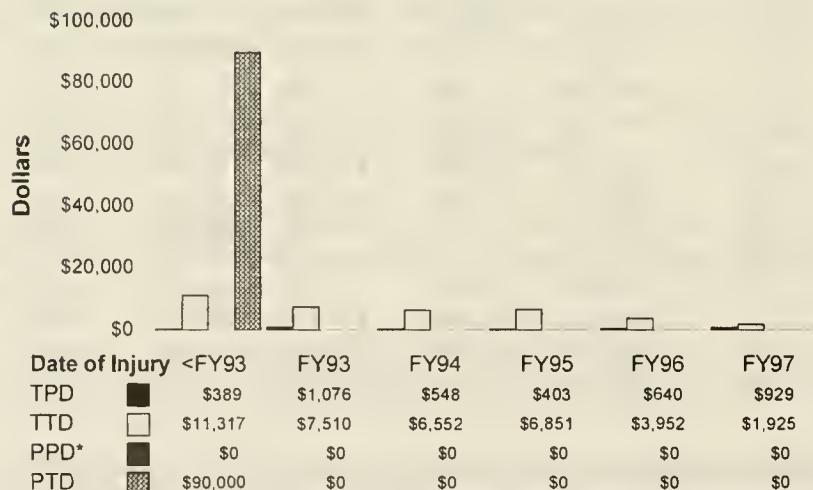
PTD = Permanent Total Disability

Comparison of Average Indemnity Payment Between Injury & OD Claims

Average Indemnity Payment by Type of Disability by Date of Injury on Injury Claims Closed & Settled in FY97



Average Indemnity Payment by Type of Disability by Date of Injury on OD Claims Closed & Settled in FY97



*This graph excludes PPD payments reported on occupational disease claims.

TPD = Temporary Partial Disability

PPD = Permanent Partial Disability

OD = Occupational Disease

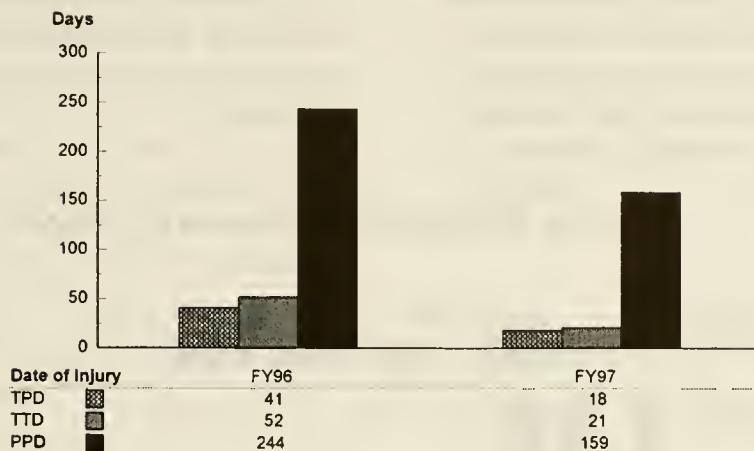
TTD = Temporary Total Disability

PTD = Permanent Total Disability

Plans 1 & 2 Only

**Average Duration in Days Between
Date of Injury and Benefit Start Date***

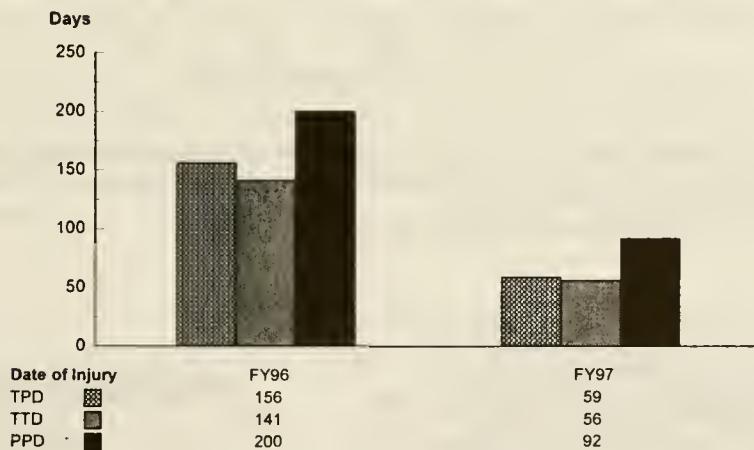
by Date of Injury on Injury & OD Claims
Closed & Settled in FY97



*Benefit start date is the first date of a compensation period and not the date the payment is actually made.

Plans 1 & 2 Only
**Average Duration in Days Between Date of Injury
and Release to or Return to Work Date***

by Date of Injury on Injury & OD Claims
Closed & Settled in FY97



*This date is the date a claimant is released to return to work or the date the claimant actually returned to work.

TPD = Temporary Partial Disability

PPD = Permanent Partial Disability

OD = Occupational Disease

TTD = Temporary Total Disability

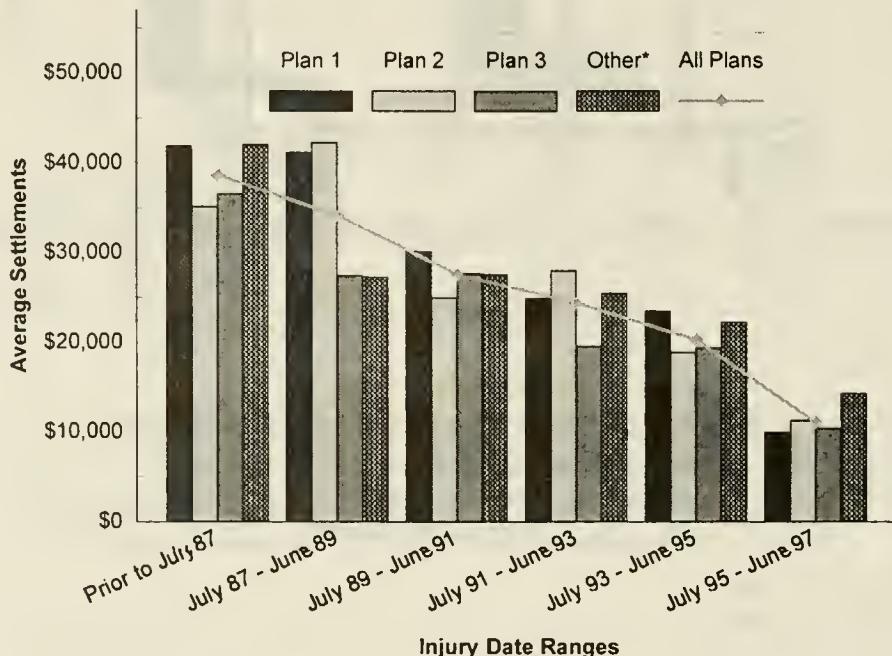
PTD = Permanent Total Disability

Settlement Dollars

A settlement is a lump sum payment of the claimant's workers' compensation benefits. Benefits are usually paid out in periodic payments that are designed to sustain an injured worker over an extended period of time. Settlements can occur when the

claimant and the insurer agree that benefits will be converted to a lump sum payment. Settlement petitions are submitted to the Department of Labor and Industry for approval.

Average Settlement Amounts by Plan**



* "Other" includes Uninsured Employers Fund, Subsequent Injury Fund, and settlements that had no plan reported

** The above graph displays average settlement amounts for claims that were settled in Fiscal Year 1997, but have an injury date in Fiscal Year 1997 or earlier.

• Injury refers to both occupational disease and injury

- ◆ The average settlement amount for all claims settled in Fiscal Year 1997 was \$24,209, which is \$4,529 higher than last year.

Overall Settlement Averages

	FY96	FY97
Plan 1	\$20,522	\$27,256
Plan 2	\$21,175	\$23,083
Plan 3	\$17,784	\$21,625
Other*	\$44,628	\$27,299
All Plans	\$19,681	\$24,209

Settlement Attorney Fees

The Employment Relations Division collects workers' compensation legal expense data on attorney fees claimed for approved settlements. The data collected are used to ensure fees the attorneys charge do not exceed the maximum amounts allowed by law. Not included are legal costs accumulated in defense of a claim,

pro-bono work, court awarded fees, fees taken from bi-weekly compensation payments prior to settlement, fees related to uninsured employer claims, benefit advances, or fees related to denied medical payments.

	FY93	FY94	FY95	FY96	FY97
Number of Settlement Petitions Processed	2,082	2,115	2,218	2,100	1,551
Claims Settled With Attorney Representation	1,358	1,270	1,183	1,086	832
Percent Claimants Represented by Attorney	65%	60%	53%	50%	54%
Total Net Attorney-Involved Settlement Amount	\$40,441,504	\$34,665,028	\$31,011,586	\$27,358,376	\$20,201,459
Total Fees	\$7,210,604	\$5,987,583	\$5,558,570	\$4,835,021	\$3,442,810
Percent Fees to Settlements	17.8%	17.3%	17.9%	17.7%	17.0%

- ◆ Similar to reports issued in previous years, there are a small percentage of records for which no attorney fees were listed due to both entry errors and reporting limitations.
- ◆ The information provided reflects settlements only and does not include advances, fees associated with biweekly compensation benefits, disputed medical benefits, court awarded fees, or amounts from lump sum payments not resulting in settlements.
- ◆ Total net settlement amounts included in the list are approximations. The settlement amounts do not include annuities.



A supplement to this annual report is available from the Department of Labor and Industry. [Settlement Attorney Fees for Fiscal Year 1997](#) provides detailed settlement attorney fee data. To request a copy of this supplement, contact John Weida:

Phone: (406) 444-4661
Fax: (406) 444-4140
Internet: joweida@mt.gov

Rehabilitation

Rehabilitation benefits are provided to claimants under certain circumstances. For disabled workers to qualify for these benefits, they must suffer wage loss as a result of a workplace injury or have a whole person impairment rating of 15% or greater as a result of a workplace injury, have reasonable vocational goals and re-employment opportunities that will likely reduce the wage loss, and have a rehabilitation plan agreed upon with the insurer.

The best possible outcome after an injury is for the injured worker to return to work.

Sometimes a disabled worker needs help to become employable again. The expense of rehabilitation pays off when the worker becomes as productive and self-sufficient as possible.

Rehabilitation benefits can provide bi-weekly compensation for up to 104 weeks. A disabled worker may also receive payment for tuition, fees, books and other reasonable and necessary retraining expenses. In addition, auxiliary benefits up to \$4,000 may be paid by the insurer for reasonable travel and relocation expenses.

Dispute Resolution . . .

Overview

Occupational Disease Panel

Disputes as a Percentage of Injuries

Mediation

Contested Case Hearings

Workers' Compensation Court

Overview

Disputes may arise during the course of a workers' compensation claim. Disputes involve such issues as benefit rates, settlement values, insurer liability, premiums owed, and whether the claimant suffers from an occupational disease or injury. When the insurer and claimant are unable to resolve the dispute alone, the

resolution process may include mediation, the occupational disease panel, or a contested case hearing. If these actions do not resolve the dispute, the parties can proceed to Workers' Compensation Court. Decisions by this court can be appealed to the Montana Supreme Court.

Occupational Disease Panel

The Claims Unit of the Employment Relations Division (ERD) is responsible for the occupational disease panel process. The panel process is designed to resolve questions that arise between a claimant and insurer about whether the claimant's condition is an occupational disease (OD). Diagnosing an OD and assigning a cause can be difficult. This process involves a panel of up to three doctors who provide opinions. Based on the doctors' opinions, ERD then issues a determination. The

determination states whether the claimant's condition is caused from employment and entitled to occupational disease benefits. Disputes over the determination are appealed to the Hearings Unit of the Department of Labor and Industry. It took an average of 90 days during FY97 to complete a case through the OD Panel process. This average includes second and third requests and mandatory statutory waiting periods.

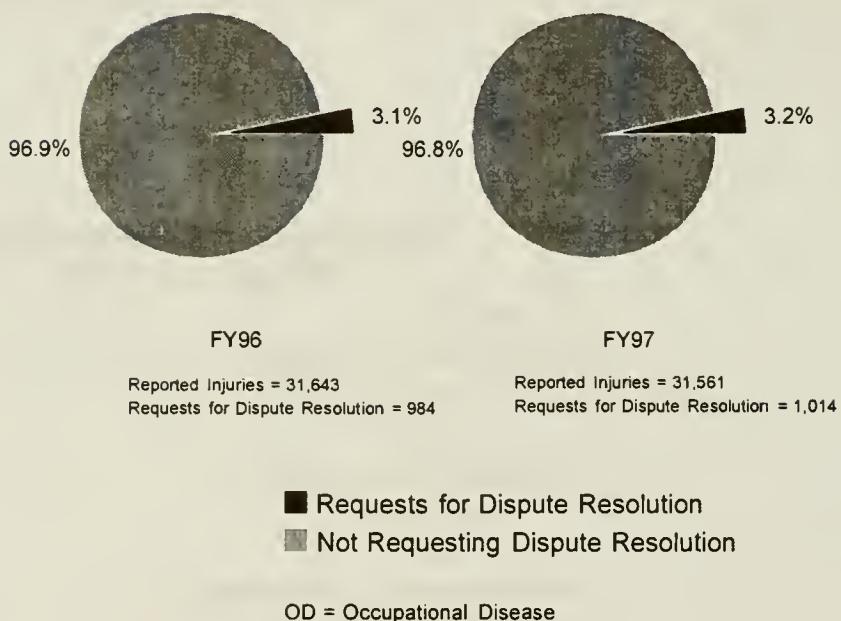
Occupational Disease Panel Fiscal Year 1997

Panel Requests:	411
Appealed after First Exam:	39
by Claimant	6
by Insurer	33
Second Exam Requested:	15
by Claimant	3
by Insurer	12
CasesAppealed to the Hearing Unit:	61
CasesAppealed to WCC:	7
Panel results:	
Claims Accepted	193
Claims Denied	81
Cases Closed:	328



Disputes as a Percentage of Injuries

Requests for Dispute Resolution as a Percent of Reported Injuries/OD For FY96 & FY97



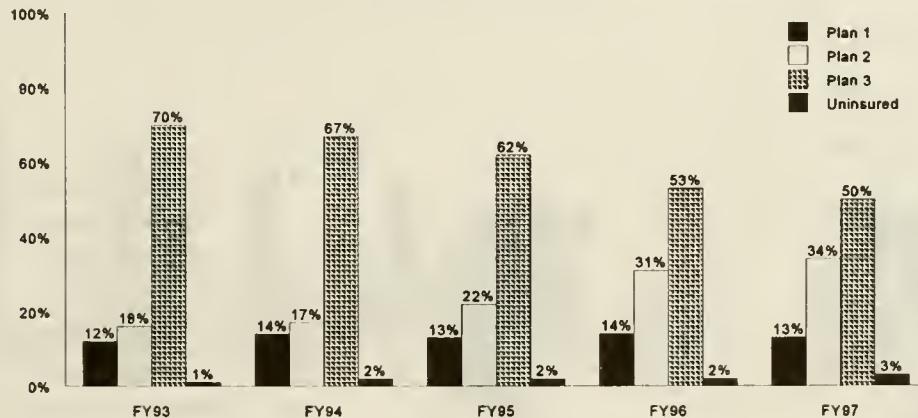
- ◆ Requests for dispute resolution represent requests for mediation and contested case hearings. There may be more than one request per injury.
- ◆ This percentage represents disputes on both indemnity (wage loss) and medical only injuries.

Mediation

The Workers' Compensation Mediation Unit of the Employment Relations Division provides a mandatory process for resolving disputes dealing with benefits for both occupational injury and accepted occupational disease claims. The mediation process is confidential, non-binding, and informal. The mediator facilitates the

exchange of information between the parties and assists with solutions aimed at resolving the dispute. Conferences are either held in person in Helena or by telephone conference call. Often, more than one conference is held in order to resolve the disputes on a claim. In Fiscal Year 1997, mediation received and processed 857 petitions.

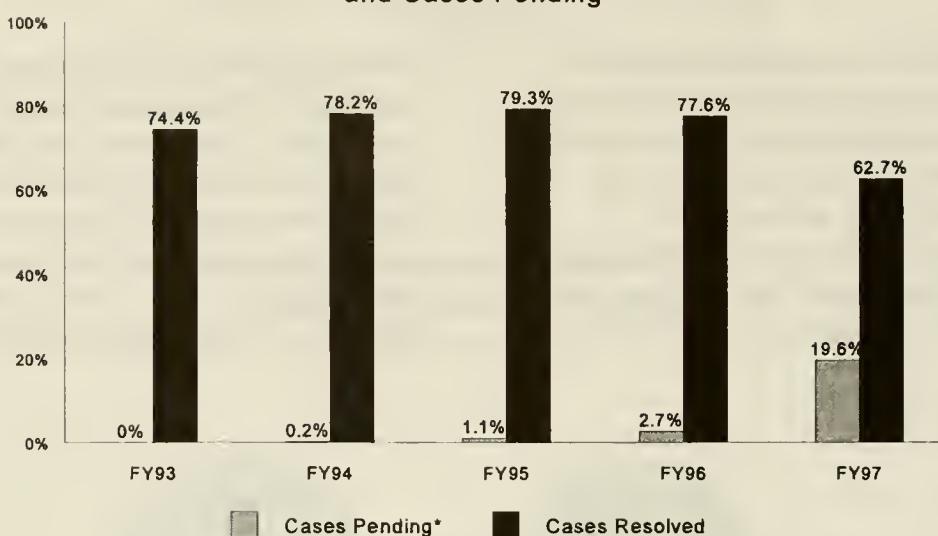
**Percent of Mediation Petitions
Received by Plan**



- ◆ The trend indicates the number of petitions for Plan 3 are declining while the number of Plan 2 petitions are increasing. Plan 1 remained fairly consistent.

Fiscal Year	Petitions Received
1997	857
1996	858
1995	1032
1994	940
1993	857

**Percent of all Mediation Cases Resolved
and Cases Pending**



*Eventual outcome of pending cases will affect percent resolved

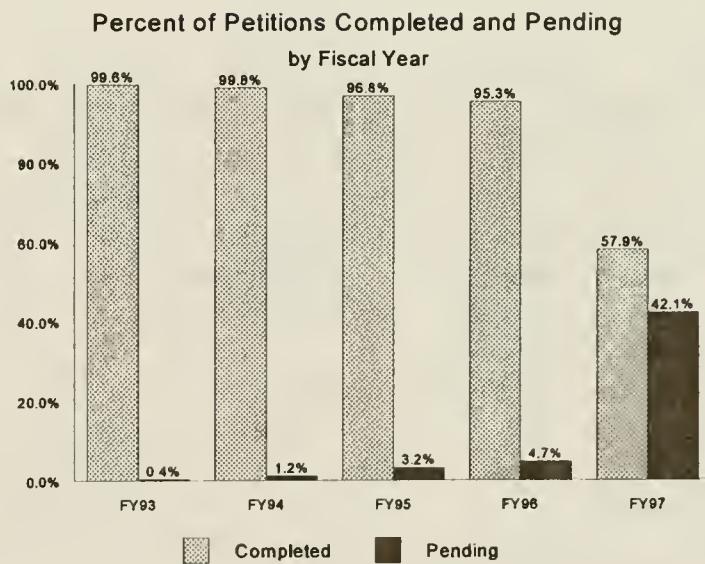
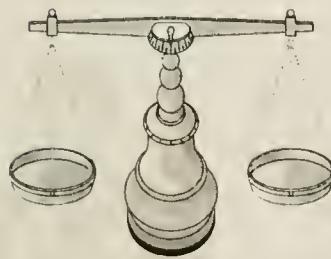
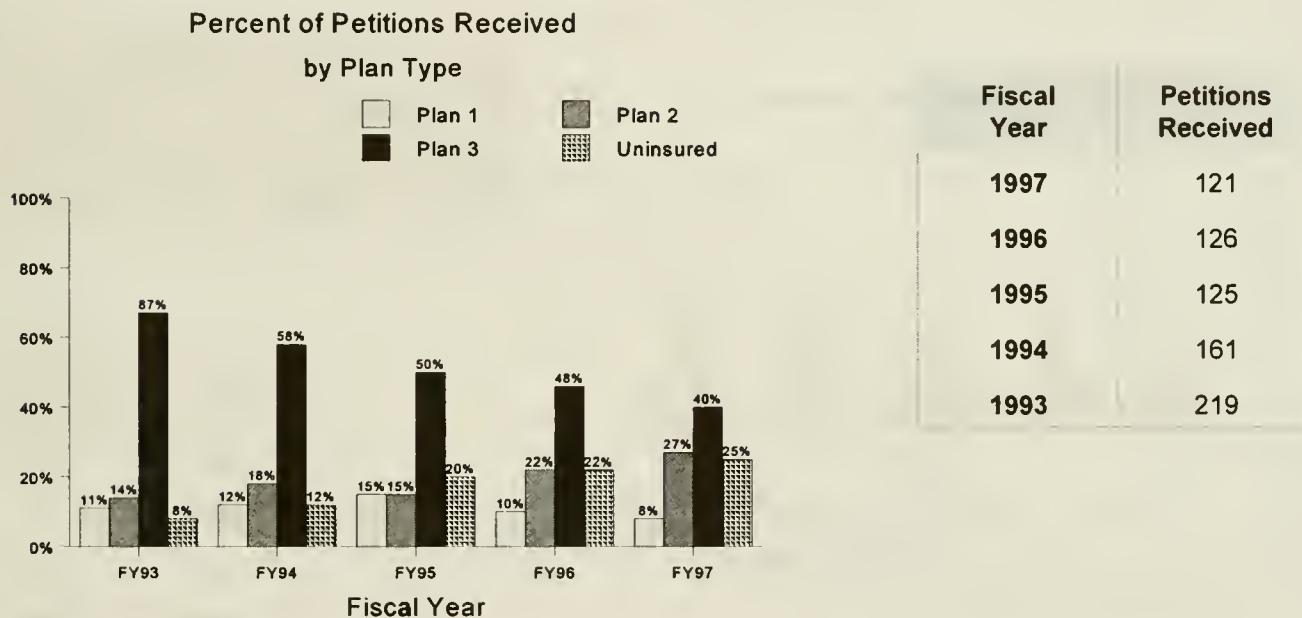


- ◆ Mediation has an approximate resolution rate of 78%
- ◆ 638 mediation cases received in FY97 had been resolved as of September 29, 1997.
- ◆ On average, mediation took 36 days to complete a case for which a conference was held and a written recommendation issued.

Contested Case Hearings

The Department of Labor and Industry's Hearings Bureau holds contested case hearings. Disputes heard at contested case hearings include appeals from orders and determinations issued by ERD, and medical disputes between providers and insurers when payments to the claimant are not an issue. For Fiscal Year 1997 (FY97) the

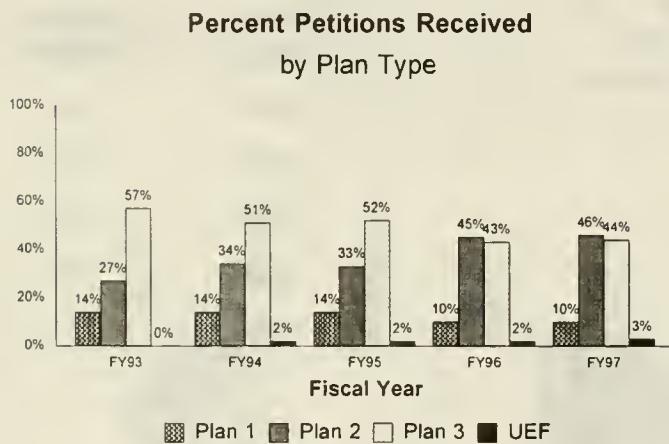
Hearings Unit received 121 requests for contested case hearings. Thirty-six hearing cases were held in FY97. One hundred-eighteen petitions have been closed or settled as of 6/30/97.



Workers' Compensation Court

The Workers' Compensation Court resolves disputes between insurers/employers and injured workers, and for workers disabled as a result of an occupational disease. The Court has original jurisdiction over most benefit issues under the Workers' Compensation Act and some issues under the Occupational Disease Act. For an injury occurring after July 1, 1987, the controversy must first be mediated. In cases of original

jurisdiction the Court holds a trial. The Court has appellate jurisdiction over decisions of the Department of Labor and Industry for workers' compensation and occupational disease benefits. Additionally, the Court conducts judicial review over decisions of the Classification and Review Committee (Commissioner of Insurance) regarding classification of employees.



*Percentages were rounded to the nearest whole percent

UEF = Uninsured Employer's Fund

1997 FACTS

- ◆ number of petitions received: 202
- ◆ number of appeals from department orders: 11
- ◆ 135 petitions dismissed
- ◆ 39 trials held in FY97
- ◆ decisions totaled 113

Fiscal Year	Petitions Received
1997	202
1996	228
1995	271
1994	256
1993	320

DECISIONS	FY93	FY94	FY95	FY96	FY97
Bench Rulings w/out written decisions	0	2	7	2	1
Decisions	45	54	56	61	52
Orders on Appeal	13	9	14	15	5
Substantive Orders	81	83	75	38	40
Attorney Fee Orders	9	5	2	9	6
Orders on Costs	5	8	10	11	9
Disposed of by Telephonic Conference	--	--	--	--	6
Subtotals	153	161	164	136	119
Petitions Dismissed by Agreement	***	***	58	157	135
TOTALS	153	161	222	293	254

*** Information not available.



Department Administered Programs & Regulatory Responsibilities...

Overview

Organizational Charts

Cost of Regulatory Responsibilities

Subsequent Injury Fund

Uninsured Employers' Fund

Managed Care Organizations

Workers' Compensation Database

Electronic Data Interchange (EDI)

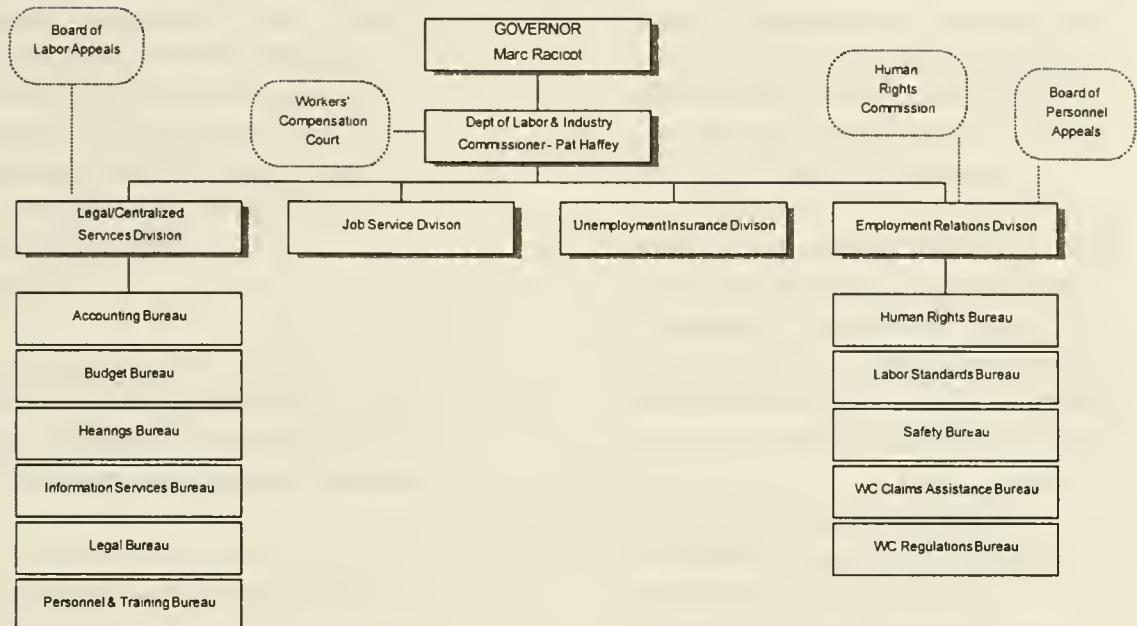
Overview

The Department of Labor and Industry's Employment Relations Division regulates workers' compensation in Montana. The Division ensures employer and insurer compliance with the Workers' Compensation Act, resolves disputes, and sets medical services fees. It also operates the state's safety program, manages the workers' compensation database, and performs other related activities.

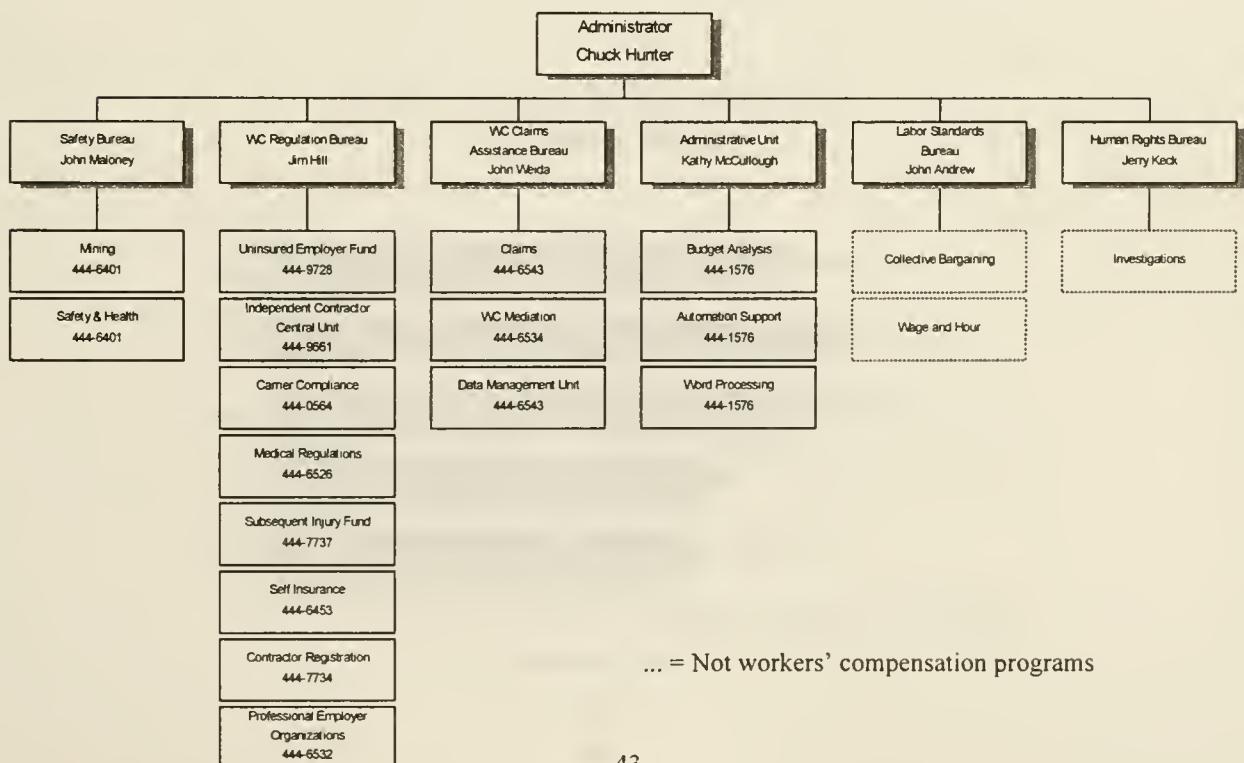
This section contains a brief narrative of the cost of regulatory functions, the role of three programs within the Department, and in most instances, a graph or table displaying program information. The following programs are included: Subsequent Injury Fund; Uninsured Employer's Fund; and Managed Care Organizations.

Organizational Charts

Montana Department of Labor & Industry



Employment Relations Division Montana Department of Labor & Industry Phone # (406) 444-6531 Fax # (406) 444-4140



Cost of Regulatory Responsibilities

The cost of administering the Workers' Compensation and Occupational Disease Acts and the various occupational safety laws is funded by an assessment to Plan 1 Self-Insurers, Plan 2 Private Insurance Carriers, and Plan 3 State Compensation Insurance Fund. The assessment is calculated on an equitable basis, using proper accounting and cost allocation procedures, to accurately derive an assessment rate.

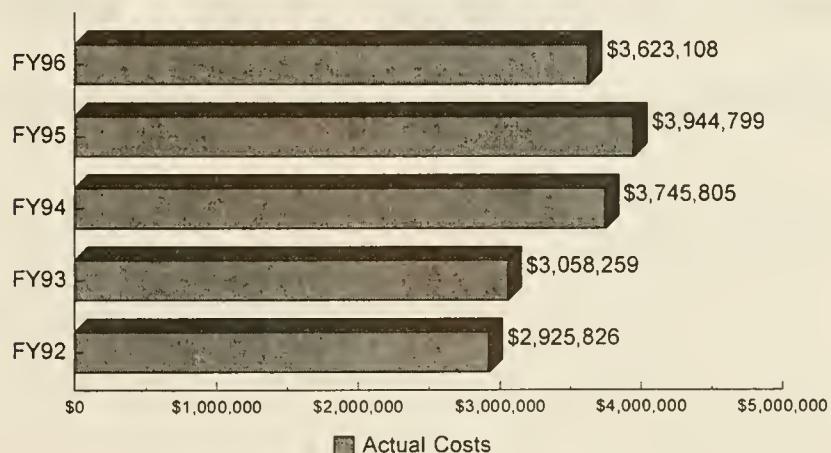
The graph below provides the actual cost of the regulatory functions performed by the Department of Labor & Industry. The regulatory functions included in the costs are:

- ◆ Legal functions of the Workers' Compensation Court, Hearings and Legal Bureaus;
- ◆ Administration/clerical support and special project functions of the

Employment Relations Division
Administrative Unit;

- ◆ Claims management, Data analysis, Rehabilitation panels, Mediation, Management information system, and Administration functions of the Claims Assistance Bureau;
- ◆ Medical regulation, Self-insurance, Carrier Compliance, Independent Contractor Exemptions, Trade Group Determination, Underinsured employers' fund, and Administration functions of the Regulation Bureau;
- ◆ Occupational safety statistics, mandatory inspection, On-site consultation match, Mining inspection, Mine training match, Boiler inspections, and Safety culture functions of the Safety Bureau.

Cost of Regulatory Responsibilities
by Fiscal Year



Subsequent Injury Fund

The Subsequent Injury Fund (SIF) was established by legislation passed in 1973. The purpose of SIF is to assist vocationally handicapped individuals in obtaining employment by offering a financial incentive to employers for hiring SIF-certified individuals. Many states have similar funds called either subsequent or second injury funds. Montana's program is funded through an annual assessment on Montana workers' compensation insurers.

The law defines "vocationally handicapped" as a person who has a medically certifiable permanent impairment that is a substantial obstacle to obtaining employment or re-employment. Also taken into account are such factors as the person's age, education, training, experience and employment rejections.

The Subsequent Injury program reduces the liability of the employer by placing a limit

on the amount an employer, or the employer's insurer, will have to pay if the worker becomes injured or re-injured on the job. When that limit is reached, SIF assumes liability for the claim. If a certified worker does become injured on the job, the worker remains entitled to all benefits due under the Workers' Compensation Act.

There were 180 new SIF certifications during the last fiscal year. There are a total of 2,127 certified employees in the state of Montana.

The assessment is based on a percentage of the compensation paid in Montana by each plan in the preceding fiscal year. All three plans use the same assessment rate against their indemnity payments each year. The rate is set by the Employment Relations Division, and each year reevaluated based on the amount of reserved dollars.

	Plan 1	Plan 2	Plan 3	Total
New Claims Filed	2	1	2	5
Number of Open Claims	30	6	13	49
Reserved Amount	\$537,225	\$414,222	\$202,288	\$1,153,735

♦ Reserved amount is the dollar amount set aside to pay the expected future cost of the claims.

SIF Payments and Dollars Assessed in the Last Five Fiscal Years

	FY93	FY94	FY95	FY96	FY97	<i>Total</i>
Plan 1						
Payments	\$203,533	\$85,769	\$44,492	\$202,663	\$162,380	\$698,837
Assessment	\$38,465	\$133,373	\$47,704	\$92,621	\$85,481	\$397,644
Plan 2						
Payments	\$15,333	\$79,751	\$49,329	\$12,979	\$36,116	\$193,508
Assessment	\$73,028	\$200,168	\$60,493	\$118,988	\$121,710	\$574,386
Plan 3						
Payments	\$15,584	\$30,819	\$632	\$134,836	\$71,190	\$253,061
Assessment	\$241,360	\$722,231	\$243,174	\$437,795	\$395,185	\$2,039,745
Total						
Payments	\$234,450	\$196,339	\$94,453	\$350,477	\$269,686	\$1,145,406
Assessment	\$352,853	\$1,055,771	\$351,372	\$649,404	\$602,376	\$3,011,776

- ◆ Plan 1 has paid less SIF assessment than the other plans over the five year period because they have paid less indemnity benefits. At the same time, they have reported more SIF claims and received higher reimbursement than the other two plans combined.
- ◆ Due to the number of claims State Fund has each year, Plan 3 is assessed a higher amount. State Fund has had fewer claims than Plan 1 over the past five years however, the payments made by SIF to State Fund are only 36% of the payments made to Plan 1.

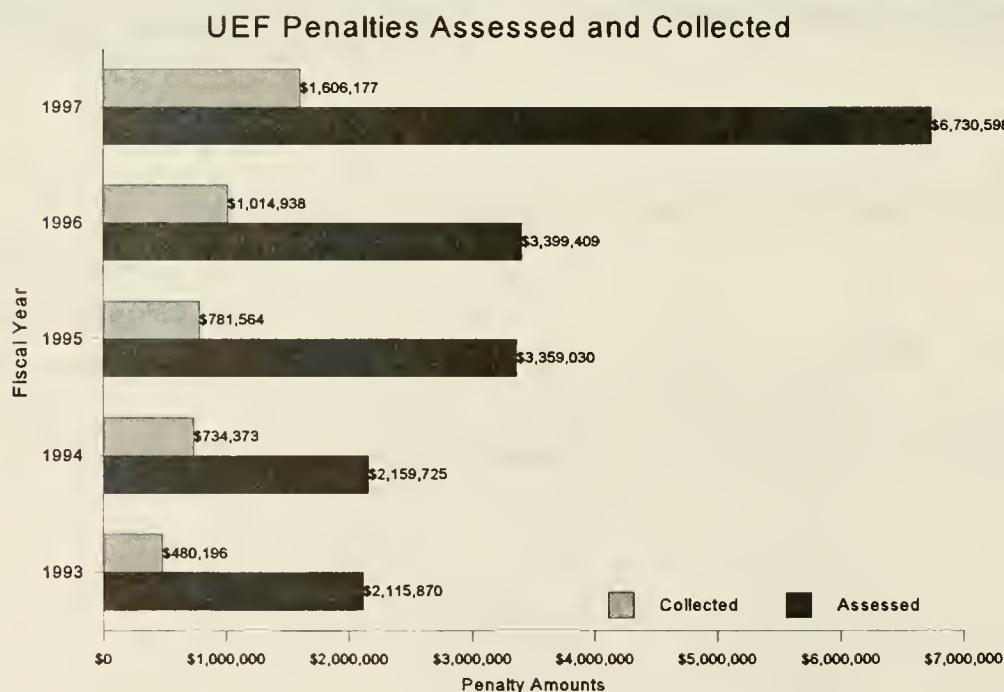
Uninsured Employers' Fund

The role of the Uninsured Employers' Fund (UEF) of the Employment Relations Division is to ensure employers comply with required workers' compensation laws so employees are properly covered by insurance. If employers are without appropriate workers' compensation insurance, the UEF provides benefits for their injured employees and pursues reimbursement from the uninsured employer.

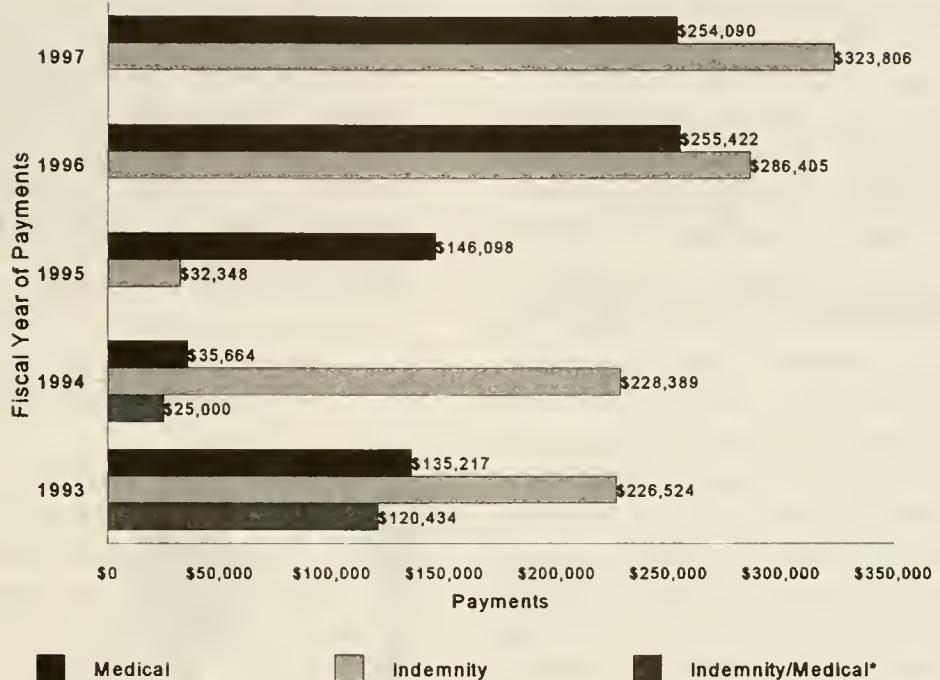
The UEF Unit also levies and collects penalties for the time the employer was uninsured. The department may require the uninsured employer pay to the fund a penalty:

- up to double the insurance premium that would have been paid by the employer,
- or \$200, whichever is greater.

- ◆ Of the over \$6,700,000 in penalties assessed by the Uninsured Employer Fund unit against uninsured employers in FY97, approximately \$1,606,000 were collected, an increase of almost \$600,000 over the prior year.
- ◆ 1,117 penalties were assessed against uninsured employers in FY97.



UEF Indemnity and Medical Payments by Fiscal Year



* Indemnity/Medical: In FY94, UEF paid \$25,000 for indemnity or medical benefits. The payment records did not differentiate between the classifications. In FY93, \$120,434 was paid for indemnity or medical benefits.

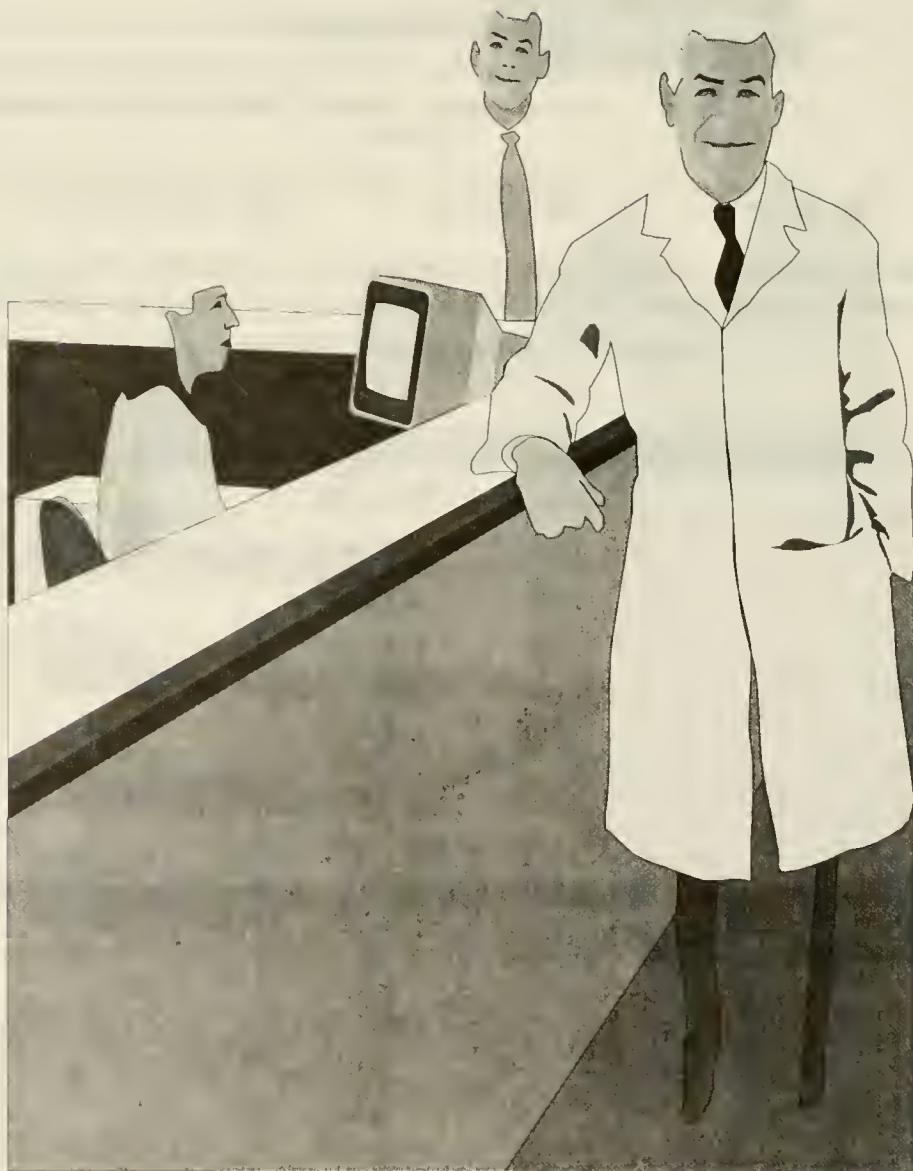
Fiscal Year	Total Payments
1997	\$577,896
1996	\$541,826
1995	\$469,587
1994	\$289,053
1993	\$482,176

- ◆ As of October 31, 1997, 115 claims were filed by employees injured in FY97 whose employers were uninsured.

Managed Care Organizations

Managed Care Organizations (MCO) are required to be certified by the Department of Labor and Industry before they may oversee the care of workers' compensation claimants. MCOs serve the medical needs of injured workers in an efficient and cost-effective manner by managing the delivery of medical services through appropriate health care professionals. The Department

has certified eleven MCOs. The Medical Regulations Unit certifies and audits the MCOs, to verify their operations comply with the requirements set in the statutes and rules. Once certified, MCOs are able to contract with workers' compensation insurers to provide coordinated care to injured workers.



The Workers' Compensation Database

In the late 1980s and early 1990s, Montana's workers' compensation system seemed to be out of control. Premiums were rising at an alarming rate, medical costs were soaring, and the courts seemed to be changing the rules on what benefits injured workers were entitled to receive. The "unfunded liability" at State Fund grew from tens of millions of dollars to hundreds of millions, and private insurers were leaving the Montana marketplace.

Montana needed to gain better control of a program that paid out over \$200 million in benefits. In order to increase control, Montana needed improved management information to focus and monitor reform efforts.

During the 1993 legislative session, Representative Chase Hibbard introduced legislation that created the workers' compensation database. The bill gave Montana its first opportunity to collect and analyze data pertaining to all areas of workers' compensation.

The law mandated data collection from insurers, employers, medical providers, claimants, adjusters, rehabilitation providers and the legal profession. The data provides management information to the legislative and executive branches for the purpose of making policy and management decisions, including:

- ◆ performance information to identify quality and cost control issues and control abuse;
- ◆ trend information on medical,

indemnity and rehabilitation costs and usage;

- ◆ litigation and attorney-involvement data to identify trends, problems and costs of legal involvement.

The database was designed with the input and approval of a task force comprised of adjusters, insurers, employers, legislators, State Fund, Montana Health Care Authority, the Legislative Auditor and rehabilitation providers. The task force adopted International Association of Industrial Accident Boards and Commissions (IAIABC) standards, accepted forms-based reporting, guided rule development, approved data elements to be collected and aided in the development of both the First Report of Injury and Subsequent Report forms used to report injury and benefit information to the Employment Relations Division (ERD).

Initial development of the database was completed on April 17, 1995. The database now provides information on the First Report of Injury, Subsequent Reports, independent contractors, Uninsured Employer's Fund, policy coverage, attorney fee agreements, and settlements.

Finally, the law required ERD to publish an annual report based on information collected from the database for the legislative and executive branches. The Montana Workers' Compensation Annual Report for Fiscal Year 1997 is the second of these reports.

Electronic Data Interchange (EDI)

The Electronic Data Interchange (EDI) affords insurers and the Employment Relations Division (ERD) a method of exchanging certain information electronically and thereby avoiding multiple entry of data into computer systems. EDI is fast, accurate, reliable and cost effective. Many insurers nationwide use EDI routinely and ERD has worked hard to make this service available for Montana's workers' compensation system.

Insurers who agree to send documents electronically sign a trading partner agreement with ERD. This agreement includes testing the reporting system to determine if the transmission mechanism is acceptable. Insurers must maintain ninety percent completeness in the data transmitted and must resend any data that is incomplete or invalid.

In June of 1996, ERD and CIGNA signed the first trading partner agreement. After thorough testing, First Reports of Injury were first transmitted and received electronically on February 4, 1997. Liberty

Northwest began electronic submissions in March of 1997 and State Fund is near completion of its approval process. Electronic submissions from these three trading partners will constitute approximately fifty percent of all First Reports of Injury.



Because of the significant increase in efficiency with EDI, and the accompanying cost savings, ERD will propose mandatory EDI reporting by the year 2000 for larger insurers.

For more information on EDI contact:
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Appendices . . .

Definitions

Methodology

Data Sources

Future Annual Reports

Supplemental Reference

Definitions

Calendar Year: The calendar year, beginning January 1st, and ending December 31st.

Cause Code: The code used to describe what caused the injury or occupational disease. The NCCI-DCI codes for cause are divided into nine categories. A tenth category, "Unknown", was created to account for the records that did not have a cause code entered.

Burn or Exposure: Includes hot or cold objects, chemical, fire, welding, scalds, temperature exposure, and radiation.

Caught in or Between: Includes caught in or between machinery, an object being handled, and miscellaneous objects such as earth slides or collapsing buildings.

Puncture or Cut: Includes punctures, cuts, or scrapes as a result of broken glass, hand tools, utensils, power tools, appliances, or guns.

Fall, Slip, Trip: Includes falling from a different level or on the same level, ladder or scaffolding falls, slipping on liquid or grease, ice or snow slips and falls into openings.

Vehicle Related: Includes collisions with another vehicle or fixed object, rollovers, rough riding, and airplane, water vehicle or rail vehicle crashes..

Strain, Jump or Lift: Includes jumping, twisting, holding or carrying objects, lifting, pushing, pulling, reaching, overexertion, and throwing.

Hit Against or Step on Object: Includes moving machine parts, objects being lifted, sanding, or scraping operations, stationary objects, and stepping on sharp objects.

Hit by Object: Includes falling or flying objects, hand tools or machines in use, co-workers, or patients, motor vehicles, moving machine parts and objects handled by others.

All Other: Includes animal and insect bites, explosions, foreign body in eye, injury or stress from an assault, and causes that occur over a period of time. Absorption, injection or inhalation not otherwise classified.

Unknown: Includes all records where cause was not reported on the First Report of Injury or where the code could not be converted to NCCI-DCI codes.

Employment Relations Division (ERD): The State of Montana's regulatory agency for workers' compensation. This division is part of the Department of Labor and Industry.

Fiscal year 1996 (FY96): The State of Montana's fiscal year, beginning July 1, 1995, and ending June 30, 1996.

Fiscal year 1997 (FY97): The State of Montana's fiscal year, beginning July 1, 1996, and ending June 30, 1997.

First Report of Injury (FROI): The initial report designed to notify the parties of the occurrence of an injury or illness. Contains basic claim information regarding the who, what and how of an occupational injury or illness.

Indemnity Payments: Payments made by the insurer to the injured worker to compensate for the loss of wages resulting from an injury or occupational disease.

International Association of Industrial Accident Boards and Commissions (IAIABC):

An organization of workers' compensation specialists including government officials and regulators, business and labor leaders, medical providers, law firms, insurance carriers, rehabilitation and safety

experts. The organization provides access to information on current and developing workers' compensation issues and standards.

Nature Code: The code used to describe the nature of the injury or occupational disease. The NCCI-DCI codes for nature are divided into eight categories. A ninth category "Unknown", was created to account for the records that did not have a nature code entered.

Sprain or Rupture: Includes strains, dislocations, hernias, organ ruptures, and trauma to joints or muscles.

Bruise or Swelling: Includes contusions, broken blood vessels, and inflammation.

Cut or Abrasion: Includes slivers, lodged small objects, open wounds, scrapes, and needle sticks.

Fracture: Includes any breaking of a bone.

Occupational Disease: Includes repetitive motion, loss of hearing or sight, respiratory conditions, poisoning, mental disorders, radiation, heart disease, cancer, AIDS, carpal tunnel, and any disease resulting from work related experiences.

Amputation: Includes loss of a limb that involves bone, loss of part of an organ, enucleation, or severance of a body part.

Burn or Exposure: Includes electrical shocks, chemical burns, temperature extremes, freezing, sunburns, heat stroke, and lightning.

Other: Includes asphyxiation, loss of circulation, infection, concussion, heart problems, vision loss, hearing loss, poisoning, fainting, no physical or psychological injuries.

Unknown: Includes all records where nature code was reported as "unclassified", the code was not reported on the First Report of Injury, or the code could not be converted to NCCI-DCI codes.

National Council on Compensation Insurance - Detailed Claim Information Codes (NCCI-DCI): A standard coding structure for Cause, Nature, and Part of Body established by compensation insurers and used by Montana. The use of a standard coding structure facilitates comparison of Montana's workers' compensation data with other states' data.

Other Benefits Code: The code used to describe the other benefits paid to date or recovered for an injury or occupational disease. The following are NCCI-DCI code definitions:

Funeral Expenses Paid to Date: The amount paid for the funeral of the deceased employee.

Insurer Legal Expense Paid to Date: The amount paid by the insurer for the services of an attorney or authorized representative to defend against a proceeding brought under the Workers' Compensation Law.

Claimant Legal Expense Paid to Date: The amount specified in the award or paid without an award by the employer or insurer for the fee of the claimant's attorney or authorized representative.

Total Payments to Physicians: The amount paid to date to treating physician(s), including all clinic and office visits.

Hospital Costs Paid to Date: The paid to date costs of both inpatient and outpatient services which the injured employee received because of the work related injury.

Other Medical Paid to Date: All other paid to date medical costs not included in payments to physicians or hospital costs. i.e. laboratory tests, prescriptions.

Vocational Rehabilitation Evaluation Expense Paid to Date: The amount paid to date expenses for testing and evaluating the claimant's ability, aptitude, or attitude in determining suitability for vocational rehabilitation or placement.

Vocational Rehabilitation Education Paid to Date: The paid to date training costs including tuition, books, tools, transportation and additional living expenses.

Other Vocational Rehabilitation Education Paid to Date: The amount paid for any other phases of the vocational rehabilitation program not reported in the other benefit types.

Vocational Rehabilitation Maintenance Benefit Paid to Date: Report the amount paid to date as a maintenance benefit while the claimant is participating in a vocational rehabilitation program. (Compensation Payment)

Consultant/Expert Witness Fees Paid to Date by Insurer: The amount paid by the insurer in a legal proceeding for expert testimony or opinion.

Employer's Deductibles Recovery: Sum of monies recovered through Insured reimbursement of deductible amounts for this claim.

Subrogation Recovery: Sum of monies recovered through subrogation for this claim.

Overpayment Recovery: Sum of monies recovered due to overpayment of indemnity, medical or expenses for this claim.

Unspecified Recovery: Sum of monies recovered through salvage, apportionment/contribution, and all others not otherwise defined for this claim.

Part of Body Code: The code used to describe what caused the injury or occupational disease. The NCCI-DCI codes for part of body are divided into nine categories. A tenth category was reported as "unknown", was created to account for the records that did not have a part of body code entered.

Head

Neck

Upper Extremity: Includes shoulder, elbow, upper arm, lower arm, hand, fingers and thumb. Does not include hand and wrist or just wrist injuries.

Wrist: Includes hand and wrist or just wrist injuries.

Trunk: Includes chest, ribs, sternum, sacrum and coccyx, pelvis, spinal cord, internal organs, heart, lungs, buttocks and abdomen. Does not include the upper or lower back, disc or lumbar and sacral vertebrae.

Back: Includes the upper and lower back, disc, or lumbar and sacral vertebrae.

Lower Extremity: Includes hip, upper leg, lower leg, ankle, foot and toe.

Knee

Multiple Parts: Includes multiple body parts or body systems.

Unknown: Includes all records where the part of body code was reported as "unclassified", the code was not reported on the First Report of Injury, or the code could not be converted to NCCI-DCI codes.

Occupational Injury: A cut, fracture, sprain, amputation, or other physical harm which results from a work accident on a single day or during a single work shift.

Occupational Disease (OD): Harm or damage caused by work-related events that occur on more than a single day or work shift. It includes acute chronic illnesses or diseases caused by inhalation, absorption, ingestion, or overuse syndrome.

Permanent Partial Disability (PPD): Permanent impairment resulting from an injury, after achieving maximum medical improvement, that impairs the worker's ability to work and causes an actual wage loss.

Permanent Total Disability (PTD): A physical condition resulting from an injury or occupational disease, after achieving maximum medical improvement, in which the worker has no reasonable prospect of physically performing regular employment.

Plan Type: The type of workers' compensation insurance coverage chosen by an employer. There are three different types of insurance plans:

Plan 1: Employers who have sufficient financial strength to cover potential workers' compensation claims may apply to be self-insured. These employers do not carry a workers' compensation policy with an insurance company and must be approved by ERD. If an injury

occurs, a self-insured employer will pay the expenses and benefits.

Plan 2: Employers with workers' compensation insurance coverage provided by a private insurance company.

Plan 3: Employers with workers' compensation insurance coverage provided by the State Compensation Insurance Fund (State Fund).

Standard Industrial Classification (SIC) Codes: Codes used to categorize employers by industry. The codes are published by the Office of Management and Budget and can be found in the 1987 Standard Industrial Classification Manual. The codes are grouped into ten different industrial divisions, as listed below with examples of each division.

Agriculture, Forestry & Fishing (AFF): Includes establishments primarily engaged in agricultural production, forestry, commercial fishing, hunting, trapping, and related services.

Mining: Includes all establishments engaged in the extraction of minerals occurring naturally, and also includes quarrying, well operations, milling, and other preparation customarily done at the mine site, or as a part of mining activity. Exploration and development of mineral properties are included.

Construction: Includes establishments performing new work, additions, alterations, reconstruction, installations, and repairs. Three broad types of construction activity are covered; building construction by general contractors; heavy construction other than building by general contractors; and construction activity by other special trade contractors.

Manufacturing: Includes establishments engaged in the mechanical and chemical transformation of materials or substances into new products. These establishments are usually described as plants, factories, or mills and characteristically use power driven machines and materials handling equipment. Establishments engaged in assembling component parts of manufactured products are also considered manufacturing if the new product is neither a structure nor other fixed improvement. Also included is the blending of materials, such as lubricating oils, plastic resins, or liquors.

Transportation, Communication, and Public Utilities (TCPU): Includes establishments providing to the general public or to other business enterprises, passenger and freight transportation; communications services; or electricity, gas, steam, water, or sanitary services; and all establishments of the United States Postal Service.

Wholesale Trade: Includes establishments or places of business primarily engaged in selling merchandise to retailers; to industrial, commercial, institutional, farm, construction contractors, or professional business users; or to other wholesale; or acting as agents or brokers in buying merchandise for or selling merchandise to such persons or companies.

Retail Trade: Includes establishments engaged in selling merchandise for personal or household consumption and rendering services incidental to the sale of the goods.

Finance, Insurance and Real Estate (FIRE): Finance includes depository institutions, non-depository credit institutions, holding companies, other investment companies, brokers and dealers in securities and commodity contracts, and security and commodity exchanges.

Insurance covers carriers of all types of insurance, and insurance agents and brokers. Real estate includes owners, lessors, lessees, buyers, sellers, agents, and developers of real estate.

Establishments primarily engaged in the construction of buildings for sale are classified in Construction.

Services: Includes establishments primarily engaged in providing a wide variety of services for individuals, business or government establishments, and other organizations such as, hotels and other lodging places; establishments providing personal, business, repair, and amusement services; health, legal, engineering, and other professional services; educational institutions; and membership organizations.

Public Administration: Includes the executive, legislative, judicial, administrative and regulatory activities of federal, state and local governments.

Subsequent Report: A form which gathers information at specific intervals about the date benefit payments begin, paid amounts by benefit type, and case progress information.

Temporary Partial Disability (TPD): A physical condition resulting from an injury, prior to achieving maximum medical improvement, that causes a partial loss of wages.

Temporary Total Disability (TTD): A physical condition resulting from an injury or occupational disease, prior to achieving maximum medical improvement, that causes a total loss of wages.

Methodology

Occupational Disease and Injury Data

All injury data included in this report are gathered from the First Report of Injury. The form is completed and submitted to the Employment Relations Division (ERD) by employees, employers, or insurers. The form includes only six mandatory fields. Non-mandatory fields such as gender, birth date, and hire date were often left blank. Limiting the number of mandatory fields was a balance achieved to ensure the value of the information was commensurate with the cost of collection. Because this report uses non-mandatory data, the term "unknown" frequently appears as a category. Subcategories shown in the various tables may not add up to the total number of records because inaccurate or missing data were omitted.

This report includes all injuries reported to ERD. However, all injuries may not have been reported.

ERD accesses State Fund injury data electronically. Currently the data received from State Fund contain several "unknown" fields because State Fund is either not yet completing these fields or the current data interchange does not process these fields and were excluded from the report.

Year to Year Comparisons

Whenever possible the data is presented with a comparison between FY96 and FY97.

Subsequent Report Data

Plans 1, 2 and UEF only:

All payment and duration data included in the Subsequent Report section of this report are gathered from the Subsequent Report or settlement petitions approved by ERD. The Subsequent Report form is completed for each individual indemnity claim and submitted to the Employment Relations Division (ERD) by adjusters or insurers. The form includes 38 fields such as claimant identification information, status of the claim, type of benefits paid, benefit payment amounts and duration of benefits.

The graphs and tables of average indemnity payments by type of disability and part of body include the data from 2,149 Plan 1, 2 and UEF subsequent reports. The table of average payment of other benefits include the data from 3,417 Plan 1, 2 and UEF subsequent reports.

State Fund only:

All payment and duration data included in the Subsequent Report section of this report were gathered from a special report prepared by the State Fund. ERD requested from the State Fund the same information available from the database for Plans 1, 2 and UEF. The information provided from the State Fund was received on an aggregate basis rather than an individual claim basis. The State Fund

was not reporting the information on an individual claim basis. The State Fund is expected to report individual claim data electronically in the near future.

All insurers:

The information received from the subsequent report and settlement petitions were combined. The payment and duration information contained in this report represents the average reported on indemnity claims only. Payments made on medical only claims are not included in the averages. To allow for comparison, whenever possible the information is grouped by type of disability, type of benefit payment, and date of injury or occupational disease.

The data include information reported to ERD on injury and occupational disease claims closed or settled in FY97. Subsequent reports may not have been submitted to ERD for all indemnity claims.

Because this is the first year Montana workers' compensation subsequent report data has been collected in the new database, and the data presented represents only closed and settled claims from one fiscal year, no historical information is available to identify trends, cost drivers, or changes in the workers' compensation system.

Industry Divisions

To allow for comparison, whenever possible the information is grouped by industry division. Standard Industrial Classification (SIC) Codes are used for this purpose. The SIC information is not reported to ERD and was obtained from other resources. Receiving this data from outside resources was unreliable at times. Consequently, the SIC Codes are missing in several places and are marked as "unknown" on the graphs.

Data Sources

Department of Labor and Industry, Research and Analysis Bureau

Annual average employment statistics for Calendar Year 1996: Employment counts separated by age, gender, and industry were obtained from the Research and Analysis Bureau and are the most current, accurate counts available.

There may be a question as to whether it is acceptable to use Calendar Year 1996 counts, but it is the most accurate information found regarding employment by age, gender and industry.

Workers' Compensation Database

The database system was built at the request of the legislature to provide management information. Employers, insurers, attorneys, medical providers, and other parties of the workers' compensation community in Montana provide data for the system.

Hearings Bureau

Contested case hearings data were provided by the Department of Labor and Industry, Hearings Bureau.

Workers' Compensation Court

Workers' Compensation Court data were provided by the Court which is administratively attached to the Department of Labor and Industry.

Department of Labor and Industry, Workers' Compensation Regulation Bureau

The Workers' Compensation Regulation Bureau provided data for the following sections of the report: Plan 1 Gross Annual Payroll, Plan 2 and 3 premium dollars, Professional Employer Organizations (PEOs), Indemnity and Medical Benefits, Subsequent Injury Fund, and Managed Care Organizations (MCOs).

Department of Labor and Industry, Mediation Unit

Mediation section data were provided by the Mediation Unit of the Employment Relations Division from the unit's database.

Department of Labor and Industry, Safety Bureau

Safety section data were provided by the Safety Bureau of the Employment Relations Division from the unit's database.

State Fund

The data for the Subsequent Report section of this report related to Plan 3 claims were provided by the State Fund.

Administrative Assessment Report

Cost of regulatory functions data were provided by ERD's Administrative Assessment Reports beginning with fiscal year 1993 through fiscal year 1997.

Future Annual Reports

In the coming years, the Montana Workers' Compensation Annual Report from the Department of Labor and Industry will continue to expand and will begin to yield the kind of data decision-makers will need to effectively manage the workers' compensation system.

As more and more states begin the process of compiling their own data using International Association of Industrial Accident Boards and Commissions (IAIABC) standards, the Employment Relations Division will begin comparing the performance of Montana's system with that of neighboring states and across the nation.

Supplemental Reference

A supplement is available from the Department of Labor and Industry. Settlement Attorney Fees for Fiscal Year 1997 provides detailed settlement attorney fee data. To request a copy of this supplement, contact John Weida:

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Fax: (406) 444-4140
Internet: joweida@mt.gov

700 copies of this public document were published at an estimated cost of \$2.30 per copy for a total of \$2,627.00, which includes \$1,017.00 for distribution.